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ABSTRACT

Testimony concerning innovative state and local programs which expand family choice in education, and the Federal government's role in facilitating such programs, is presented. Testimony reviews research findings that bear on the issue, variables involved in planning educational choice, reforms proposed in the Minnesota plan for K-12 education, Minnesota's Post-Secondary Enrollment Options Act of 1985, private sector alternatives in education, and disadvantages of alternative education programs, such as tuition tax credits and tuition voucher systems. Copious additional material submitted for the record includes: (1) three issues of the periodical "Educational Freedom" which focus on educational vouchers and the advantages and constitutionality of tuition tax credits, (2) discussions of the effectiveness of public and private schools, and the organization of the schools in relation to politics and markets, (3) a description of the Prince George's County school system's "Workplace School," (4) a discussion of how the selection of strategy for designing federal programs influences program operation and effects, (5) arguments against the use of tuition vouchers, (6) a brief position statement of the Minnesota Federation of Citizens for Educational Freedom, Inc., (7) the Minnesota Congress of Parents, Teachers, and Students' statement on legislative proposals concerning open enrollment and parent choice, and the desirability of limiting publicly funded choice to public schools, (8) the brief position statement of associated liberal organizations, (9) recommendations for the fundamental restructuring of Minnesota's educational system, and (10) the Clearinghouse on Educational Choice's analysis of population sectors most likely to support educational vouchers. (RH)

S. Hrg. 99-500

STATE AND LOCAL INNOVATIONS IN EDUCATIONS CHOICE

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HEARING

BEFORE THE

SUBCOMMITTEE ON
INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

OCTOBER 22, 1985

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STATE AND LOCAL INNOVATIONS IN EDUCATIONS CHOICE

TUESDAY, OCTOBER 22, 1985

U.S. SENATE,
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The subcommittee met at 2 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Dave Durenberger (chairman of the subcommittee) presiding.

Present: Senator Durenberger.

OPENING STATEMENT OF SENATOR DURENBERGER

Senator DURENBERGER. The hearing will come to order.

The subject of today's hearing is expanding family choice in elementary and secondary education. Particularly, the focus will be on innovative State and local programs, which expand choice in education, and on what role the Federal Government should play in facilitating such initiatives.

Before discussing specific programs and alternatives, though, it is useful to pause a moment and consider what brings us together today. And that is a basic concern about the quality of American education and the direction in which it is heading. Americans traditionally have placed enormous faith in education. Acquiring a good education has been a means of self-improvement; for some, even a passport out of poverty. In a democratic society, education has a civic role to play, and as Thomas Jefferson expressed it, "No other sure foundation can be devised for the preservation of freedom than educating the people."

Thus, it is disturbing to see the mounting signs that the public schools in this country are in trouble. In just the last 4 years, nine major research studies and commissions have documented serious problems in elementary and secondary education. In fact, just last Sunday, NEA President Mary Hatwood Futrell brought yet another important study to our attention in the Washington Post. Among other things, such research has found that:

American students are falling behind their foreign counterparts in scholastic achievement; verbal SAT scores fell 50 points between 1963 and 1980, and math scores fell 40 points during the same period; 13 percent of all 17-year-olds are functionally illiterate; 40 percent of all 17-year-olds cannot draw inferences from written material, and 80 percent can't write a persuasive essay.

Spending on remedial training of high school graduates has increased dramatically in recent years; and, finally, insufficient numbers of academically able students are entering the teaching profession at the elementary and secondary levels.

Not all the news is bad, however. Over the past few years, States and localities have launched a sweeping array of educational reforms. Since 1982, 40 States have enacted tougher graduation requirements, 36 have adopted additional student testing, and 25 have established new or revised programs of teacher testing. Such reforms enjoy considerable popular support and address an important goal. But imposing core curriculums or standardized requirements statewide is a clumsy means of addressing the varying needs of different students.

A different approach for addressing the problems facing American education is to expand student and parental choice within our education system, to reward excellence by promoting competition. As Americans, we are increasingly aware of the competitive nature of the world in which we live. In order to retain our competitive edge in business, in science, and in every aspect of our lives, we must insist on maintaining an educational system which is responsive to the constantly changing demands which it must satisfy.

We are all familiar with the role of competition and choice in the marketplace. But what do we mean by expanding choice in the public sector? I know what it means in health care. It means giving patients and doctors genuine options among different kinds of insurance, providers, and medical services: Preventive health care, HMO's, individual practice, group practice, and so on. It means giving poor people access to health care they have never had before. It means using competition to hold down spiraling medical costs, and it means giving doctors and other health care providers new choices, too. Change has come about only by working closely with health care professionals.

That is an approach I would like to explore in education. Some people have always had choices in education. Those who could afford to choose where they live could choose the kind of education they wanted for their children. If they couldn't find what they wanted in the public schools, they could afford to go outside that system and send their kids to private schools, or they could pick up and move to another public school district.

But many families never had, and do not have, that choice, unless they are fortunate enough to have access to a community-supported parochial school. Today, the options available to most families are even more limited. With today's cost of housing, the middle class can't afford to vote with its feet, because it can't afford a home. In rural areas, the property tax base is declining rapidly, along with the prices that farmers get. And in inner cities, don't let anyone tell you that public schools are free. They are certainly not free in Chicago, where the dropout rate is 60 percent, and 46 percent of public schoolteachers send their kids to private school. Low-income families there are paying for their lack of choices with their children's futures.

So, I think that in education one of our goals should be to help such families afford to make a choice of schools, if they can't afford a choice of where to live. Exactly how that might be done is what this hearing is all about.

It is encouraging to find that State and local governments all across the country are introducing an array of programs designed to expand choice and competition within elementary and secondary education. Some of these programs are confined to public schools. Others include both public and private. Some reforms are systemwide. Others are targeted to specific groups or students with specific needs. But all give renewed meaning to Justice Brandeis' vision of States as "laboratories of experimentation." They give all of us a chance to hear how well they performed, where the pitfalls are, and what they promise for the future.

Another purpose of this hearing is to put the spotlight on the role the Federal Government ought to play in promoting educational choices. The Federal role in education is a limited one, and, in fiscal terms, it has been declining. There are regulations, but the answer doesn't lie in more Federal mandates. If anything, we need to lighten the load so that teachers are free to teach.

But there may be things the Federal Government can do in this important area. The Federal Government has been involved in educational research since the original Department of Education was created in 1867. We will be hearing this afternoon from Education Department officials about research findings relating to educational choice. We may also hear testimony about an administration proposal to let school districts issue vouchers to educationally disadvantaged students in lieu of supplementary compensatory education programs.

Greater competition is not a panacea for every governmental problem. For example, privatizing first-class mail delivery would leave rural residents out in the cold. Some areas outside of high-volume, profitable routes have suffered, too, in the move to deregulate airline and bus transportation. In education, special care may be needed to assure that handicapped and other special needs students are provided for, and that unique requirements or sparsely populated rural areas are addressed. We must also be sure that parents, teachers, and school administrators are all consulted and involved in devising workable solutions.

Real change will not occur unless education professionals recognize the value of reform and put their individual talents to work accomplishing it.

But we know it can be done. We already have an educational system in this country that promotes choice and competition among nearly 3,000 separate institutions serving millions of students. By allowing providers to compete and students to choose freely, we have developed the finest system of higher education in the world. That should be our goal in elementary and secondary education.

And it is a goal, I am certain, we can achieve.

We might have a small problem this afternoon in that we are supposed to have three votes that have been stacked up for the convenience of somebody, certainly not for the convenience of our witnesses at this hearing. So, I will be running in and out. In the meantime, we will begin with Dr. Chester Finn, who is assistant secretary for educational research and improvement, U.S. Department of Education, Washington, DC.

Checker, we welcome you here. Checker will be followed by Dr. Joseph Nathan, a research fellow, public school incentives author.

Welcome, Dr. Finn. We appreciate your being here. Your testimony is part of the record. You may proceed to read it or summarize it.

TESTIMONY OF CHESTER E. FINN, JR., ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, DC, ACCOMPANIED BY JACK KLENK, PATRICIA LINES, AND JAY NOELL

Mr. **Finn**. Mr. Chairman, thank you very much. You have a stellar lineup this afternoon, and I am honored to begin it. With me at the table are Jay Noell and Patricia Lines of the Department of Education, and also with me in the hall are several additional staff members of the Department of Education who have been working very hard at assisting me to assemble the more detailed testimony that we will submit for the record in a few days.

We are going to give you today, if this is agreeable, kind of a summary and overview of what we think we have found out, which is not all that one might wish to find out. We have surveyed as much research as we can readily get our hands on, but that will never be all of it.

I might say that this is my first formal congressional hearing since assuming this position, and it is a particular pleasure to be doing that in your company. So thank you for having me.

The issues you are beginning to address this afternoon—which you personally have been addressing for quite a long time—are very important ones in education. They are often clouded by politics and preconceptions, and often not illuminated as much as they might be by knowledge. But the discussion of these issues does, I think, partake of a genuine dilemma that the United States has never really resolved and probably won't ever completely resolve, which is the question of the extent to which elementary and secondary education is fundamentally a function of the family or fundamentally a function of the larger society.

Of course, I think it is both. But people have different notions as to the exact balance between these two approaches. I appear today not on behalf of any particular proposal. Over the years, I have made various proposals of my own and have worked for others with choice proposals of their own, including at least one of your colleagues.

Currently, I am working with an administration during a particularly active phase of interest in both vouchers and tuition tax credits. As you know, the administration's chapter 1 voucher proposal will be forthcoming in a very short period of time.

But we are here today, not to discuss any particular proposal, but rather to review what we know about the research findings that bear on this issue. I don't guess anyone should suppose that all the controversies in this field will be settled by research, both because these controversies partake of ideology and belief, but also because the research to date is necessarily incomplete. It is incomplete, in large part, because a great many proposals that we would like to know more about have never been tried. Consequently, they cannot be readily studied.

Let me begin by reiterating a general point that you made in your excellent opening statement, Mr. Chairman. In the United States, choice is commonplace in many domains of our life and in many Federal program domains; in health care, with which you are intimately familiar, in food stamps, in higher education student aid, and in many other domains. Less often recognized, I think, is that choice is already commonplace in elementary and secondary education today; through selection of private schooling, of course, but also through choice of a public school: through the selection of one's residence in the right attendance zone; participation in public school choice programs; magnet programs; alternative schools; interdistrict transfers; electives within the curriculum and similar programs.

I want briefly to survey some of the publicly sponsored choice activities already underway in the United States today. Some of them are familiar to you; some of them are extremely familiar to subsequent witnesses this afternoon.

In Vermont and Maine, public school districts with no public high school of their own send their children to the school of the child's choice, including private schools, and do so with public resources. In a number of our desegregation programs, we rely upon choice among public schools to achieve better racial balance, as in Hartford, CT; on open enrollment schemes, as in Cambridge, MA; on choice among schools, as in your own Minneapolis; and on interdistrict transfers, as in Milwaukee and its adjacent areas.

We already have alternative schools in many public school systems; these developed in response to the demands of parents for more educational diversity. Eugene, OR, is an example of that. We have interdistrict transfers in situations where State law permits the State funding to follow the child. Tennessee, where I was living, is an example of that. The State foundation grant is, in effect, portable. It goes to whatever district the student is enrolled in. So it is up to the parent and the district whether the student can enroll there.

We also have pioneering programs of choice for dropouts in the State of Washington, represented here today, which provides youngsters with a choice of alternative schools or specialized education clinics. We also, as you know, have a wide array of choice programs for the handicapped, including private placement under State and Federal law, where such placement meets the particular needs of the handicapped child. And new proposals are coming in month by month.

As you know, your own Minnesota is pioneering a program that permits secondary school students to enroll in college courses, with the State paying for their tuition and materials. Colorado last year adopted a second chance program for dropouts that in many ways resembles the Washington program of education clinics.

South Dakota last year adopted transfer programs that will help small rural districts consolidate their schools at the secondary level, where too small a high school may not be viable.

In addition to domestic arrangements, we have ample evidence that choice programs are widespread and successful in other nations. In the Netherlands, we find the government supporting the construction and startup costs of private schools and then contributing 90 percent of the cost of attendance of those schools.

In Canada, province by province, we find many different arrangements of assistance to private schools and people attending them. Perhaps most dramatically, the Province of British Columbia allows its per pupil grants to follow the students, much like a voucher program, and those schools that meet particularly stringent requirements receive a higher grant. Australia provides both tax benefits for parents who pay tuition at a private school and direct government assistance to those schools. Overall, one can say that most Western European countries also provide some form of assistance to private schools.

Let me talk now about the extent and popularity of choice in the United States today. Let me begin with the 1985 Gallup Poll, in which people were asked about their view of tuition voucher schemes. It turns out that 45 percent of the public was in favor of this proposal, while 40 percent was opposed. A plurality, in other words, of the American public favors a voucher approach, and there were larger proportions among subgroups of the population. Among parents of schoolchildren, 51 percent favored vouchers; among the black population, 59 percent favored vouchers; among central city residents, 53 percent; among big city residents in general, 54 percent; among younger adults 55 percent; among those who judge their public school less than satisfactory, 52 percent.

These are slender majorities, but they are majorities among those segments of the population.

Additionally, the Gallup poll asked what people thought of the recent increase in private schools and in attendance of private schools. Well, 55 percent of the public thought this was, in general, a good thing and this included 56 percent of public school parents as well as 71 percent of private school parents.

A few years ago, the NIE, through its National School Finance Project, conducted an additional poll, asking people whether they would send their children to private schools if they could claim a $250 tuition tax credit. Nine percent of the respondents said they would.

Those who said this most often included blacks, 18 percent of whom said they would; Hispanics, 20 percent of whom said they would; low-income people, 13 percent of whom said they would; and big city residents, 18 percent of whom said they would.

Once again, the numbers are not large, which, incidentally, tends to confirm the view that this kind of aid would not induce a massive switch of people from public into private schools. But I think most significantly, the people who are most in favor of this kind of an arrangement are those who have the least access to it today; in other words, low-income, disadvantaged, and urban residents.

The most common form of choice in the United States today is the ability to select a public school by selecting where you want to live. Based on a survey of Minnesota parents, we estimate that over half of all public school parents take into account the local schools when they decide where to live, when choosing a location for their residence.

Of course, parents tending to make this choice tend to be more affluent, those who can afford to live where they would like. Within public schools, options attract a diverse population and attract them in different patterns. For example, more affluent parents tend to choose open classrooms when they have the choice. Poor and minority parents tend to choose a more traditional classroom.

The next most prevalent choice among schools is, of course, the choice of private education, now made by about 11 percent of all school-age children in the United States. As you know, current private school attendance contains a disproportionate number of children who are affluent and white, presumably because those are the people who can most afford to attend private schools. We have had a lot of evidence recently of rapid growth within private education, particularly among fundamentalist Protestant schools, alternative schools, Montessori schools, nonsectarian, inner city, minority, private schools, and the like. In addition, we have to take cognizance of home instruction, an option that a small number of Americans choose, perhaps involving 50,000 or so school-aged children today.

We also have a self-instruction, leading to such things as the GED alternative to the traditional high school diploma. About 200,000 Americans a year take the GED exam, suggesting that there is a second chance approach that this kind of alternative makes possible for people who left school before graduating. These, again, are particularly minority and low-income people.

Senator DURENBERGER. Are you getting near the end of your statement?

Mr. FINN. I could get near the end very quickly, if you would like.

Senator DURENBERGER. Please, if you can. We will pass it out to everybody. We are just under a little time pressure, that is all.

Mr. FINN. OK. Let me just suggest that our ideas as to why we want to widen the choice rest on four different theories, as far as I can identify them. These are not mutually exclusive. They overlap. You don't have to agree with all of them to favor choice.

First is the notion that choice will promote social justice by extending opportunities to those who lack them now. The second theory is that choice will promote competition in the education marketplace which, in turn, will improve the quality of education. Third is that choice will strengthen the role of the family in determining the education of its children; and the fourth is that choice will permit individual schools to take more responsibility for their own education policies and practices at the building level and that this will stem the tide of greater centralization. This would be a good thing for educational equality and would be a good thing for educational professionalism as well as for the family alternatives.

I would be happy to continue, but I would be equally happy to windup and repeat that a longer and fuller version of what I have to say will be in your hands in about a week's time, if that is agreeable.

Senator DURENBERGER. OK. That would be very agreeable. What we are trying to do today is set a framework for the larger issue and continue to expand that. We don't have a bill before us. This is not a hearing on vouchers or tuition tax credits or anything of that sort. We are trying to determine Government's responsibility with respect to education and the way in which it ought to discharge that responsibility.

You did mention in your remarks that it won't be too long before we see the administration voucher bill. Is that correct?

Mr. **Finn**. That is correct.

Senator **Durenberger**. Am I correct in inferring that, in effect, the voucher is a cash-out of chapter 1?

Mr. **Finn**. Of chapter 1.

Senator **Durenberger**. Expenditures?

Mr. **Finn**. Yes; it is.

Senator **Durenberger**. Am I also correct in assuming that there will be approximately $540 per participant in the kind of program that you are talking about?

Mr. **Finn**. If I may, I will defer my question to Jack Klenk, who is here, because he knows more about the forthcoming bill than I do.

Mr. **Klenk**. Approximately, yes, about $600 per student.

Senator **Durenberger**. That is a $600 contribution toward what I would guess is a substantially higher cost of education. Do you consider that I as a Senator, will have effectively discharged my responsibility by putting it up to $540 per person? How do you see that voucher being structured so that it insures a product at least as good as the one I had before—and preferably—a better product?

Mr. **Finn**. I would like to defer to Jack, again, if I may. Would you like to come forward?

Senator **Durenberger**. Obviously, we are converting from one type of direct payment to providers to a payment through consumers. How can we be sure there will be a service there and that it will be adequately matched by other funds, when we convert from a direct payment to a voucher program?

Mr. **Klenk**. The way the voucher works is that the parent would receive approximately $600, and the parent would determine whether the Alternative Educational Program was advantageous. We recognize that no parent would be able to take advantage of using the voucher unless they were willing to make an additional financial sacrifice to pay the difference in tuition that might be charged by the school, and we feel that is the best way to ensure quality.

Senator **Durenberger**. I will tell you my problem. When I was at the Finance Committee and I proposed the so-called Minnesota amendment to the tax credit—which would make tuition payments to both public and private schools eligible—Russell Long did a delightful number on me, called "I thought Humphrey was bad until you came along." He said, "What if every public school in the country started charging tuition? Then what would the revenue forgone amount to in this bill?"

And I said, "Probably a lot, We'd just have a different way to pay for it."

When you begin with a program of direct payments to a provider and convert to a program that exacts a part of the deposit from the parent, does that mean that the provider changes the way it charges for its services? How will the provider community accommodate vouchers?

Mr. KLENK. First of all, the program would be revenue neutral. It would operate only for children who have already been determined by the local school district to be disadvantaged and available to chapter 1. About $600 is going to go to each one of those children from the Federal Government already. All the voucher program would do would be to allow the parent to decide to which school will that $600 go with the child. It wouldn't add any additional expenses at all.

Senator DURENBERGER. I understand that part. What if the choice were between a school that charges tuition and a school that doesn't charge tuition? If parents are armed with $600 and they choose a school that doesn't charge tuition, how do they spend the $600?

Mr. KLENK. I am not sure what you mean. Do you mean a public school?

Senator DURENBERGER. Let's say you have all public schools in a certain area, and the chapter 1 money has been going directly to these schools to provide services to children who come under these special categories. Now, instead of providing the schools that money, you are supplying parents $600 vouchers. But the public schools are still tuition free.

People who run private schools can decide there is an opportunity here and go into competition with the public schools.

What would happen to the public shcools? Would they begin to charge tuition?

Mr. KLENK. They would only charge tuition if they were going to add compensatory services that were not already being provided. Of course, the Chapter 1 Program is a "Supplement-Not-Supplant" Program. That is, the school has to provide additional compensatory services that are paid for out of chapter 1 funds. The normal school program is not funded through chapter 1. That would not change for the local school. If the child were to attend a private school outside the local school district, there may be some changes made, and these would be addressed in the bill that the Department, the administration, will offer.

Senator DURENBERGER. I probably should not get too far into the bill, but it seems that just converting to a different method of payment doesn't necessarily mean that people are going to have choice. How does choice occur, just because everybody is standing up with $600 vouchers?

Mr. FINN. You would have some choice among compensatory services, Senator, which is the underlying concept of chapter 1, and you would be able to procure those services from a public school that might otherwise have supplied them to you, or from a private school, where this may not equal the full tuition; or it may be a form of additional education that a private school would supply you as a compensatory or supplementary program.

Senator DURENBERGER. There are a series of questions that followup from that. I think for the sake of time, I will have to thank all four of you for your presentation. I will look forward to your submission for the hearing record, and I shall return in the 6 minutes that it will take me to vote.

[Short recess.]

Senator **Durenberger**. Dr. Finn, in 1982, President Reagan proposed a new federalism plan to sort out functions between the various levels of Government. That plan proposed increasing Federal financial responsibility for some programs like Medicaid, and reducing or eliminating Federal responsibilities in education and elsewhere. Although the plan was never formally adopted, since 1980, there has been a sort of de facto new federalism under way, which has substantially reduced the Federal fiscal role in education.

During the past 5 years, Federal aid to education has declined 26 percent in constant dollars, 35 percent as a percentage of the total Federal budget, and 33 percent as a percentage of State and local spending on education. Under these circumstances, should the Federal Government be assuming a leadership role in expanding educational choice, or should it be leaving such initiatives strictly to the State and local discussion?

Mr. **Finn**. As our full testimony makes clear, a great deal of the education choice activity in the United States today is and will continue to take place at the State and local level, where there is an enormous amount of effort under this heading. I think that is proper, and the administration thinks that is proper.

In addition, the Federal Government can and should do certain things to foster educational choice. The forthcoming chapter 1 voucher bill is perhaps the largest example, but, for example, in the research and data gathering area, which is my area within the Department of Education, we are going to continue to study, evaluate, gather information about and explain, as best we can, whatever is known.

If States and localities would like assistance in evaluating and appraising and tracking their programs, we will do our best to help.

In addition, the Secretary's discretionary fund, under which there was recently a competition under the heading of "Content, Character and Choice," will be supporting a variety of very small, in dollar terms, choice-related activities over the next year or two. It already is doing this, incidentally, under previous competitions.

So I think there is a limited but valuable Federal role here. But please don't think that it will in any way displace the State and local role in this area.

Senator **Durenberger**. It seems to me that the bottom line in any discussion of education reform for delivery is performance. If you were to summarize all the available research on educational choice in the clearest possible terms, would you characterize those findings as supporting the conclusion that expanding choice improves student performance, that it reduces performance, or that research findings are simply inconclusive on this point?

Mr. **Finn**. On balance, the research to date supports the idea that improvement will result from expanded choice. Individual studies are, of course, controversial, subject to constant reanalysis and further analysis and so forth. As I said at the outset, I don't think we will ever have all the research we might like to have, particularly until and unless some of the things that need to be studied in this area are, in fact, tried. It is hard to study them if they haven't been done.

But insofar as existing studies, at least those with which I am familiar, can be summarized, I think it is fair to say they conclude that performance will improve, particularly, if I may add, among the low-income and minority youngsters.

Senator **Durenberger**. That has been my experience in health care, which tells me that maximizing choice for both consumers and providers is an excellent rule of thumb. Although it is possible that too much choice can eventually confuse even the most educated consumers, it takes a long, long time to get to that point.

In your opinion, is that a strategy we should adopt in education? Can we assume that works in health care will work equally well in elementary and secondary education, or can you identify, as an educational authority and as an advocate of choice, some differences between these two areas of policy that we, as policymakers, ought to be on the lookout for?

Mr. **Finn**. Well, of course, it is not a direct transfer of experience from health care into education, but we have analogous experience in many other domains. As I said earlier, in the nutrition programs, in higher education programs, in housing programs, you can make quite a long list of programs where we do, in fact, provide choice to recipients and competition to suppliers. For the most part, I think we have had a reasonably satisfactory experience with this.

I think the important difference in elementary and secondary education is first the scale of the enterprise. We are talking about, roughly speaking, 50 million kids, and we are talking about children who will not necessarily be the ones making these choices.

For the most part, we are talking about choices that will be made by their parents on the basis of information available to their parents. So I think we have to think those things through pretty carefully, the information supplying and the decisionmaking processes that people engage in.

But I think that the analogies in countless domains of public policy of the United States and in many other countries suggests that this is a reasonable direction to pursue.

Senator **Durenberger**. Thank you, Dr. Finn.

Mr. **Finn**. Thank your very much.

[Short recess.]

[Mr. Finn's prepared statement follows:]

EDUCATION CHOICE: THEORY, PRACTICE, AND RESEARCH

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U. S. DEPARTMENT OF EDUCATION

BEFORE THE SENATE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

COMMITTEE ON GOVERNMENTAL AFFAIRS

October 22, 1985

Mr. Chairman and members of the Committee, I am pleased to be here today to discuss our knowledge about choice in education.

As you have requested, my testimony will address the idea of education choice: the scope of choice available today, some of the research on it -- much of which has been federally-sponsored -- and research that is under way or on the drawing board. I will review our experience with choice, including publicly-sponsored programs to enhance education choice in this country and policies pursued by other democratic nations. I will identify who stands to benefit from greater choice and who already exercises choice. I will discuss what we know about the effects of these varying opportunities for education choice. To the extent that the data and existing analyses permit, I will examine the effects on institutions, students, parents, teachers, and other individuals. And finally, I will outline our research agenda on choice.

First, let me define the topic. Education choice means the conscious selection of a school, an education program, or a particular set of academic courses, as opposed to involuntary assignment to a school, a program or a set of courses. We are talking about the prerogative of families, rich or poor, to have a say in selecting schools, educational programs or academic courses for their children. Some commentators have said that efforts to enhance choice would serve primarily to benefit the upper middle class or wealthy. In fact, just the opposite is true. The affluent already have many choices because they can pay tuition or choose where they want to live, and thereby the schools they want their children to attend. So, when we talk about enhancing choice, we're really talking about giving working class and poor people the opportunity to choose schools and programs that the more affluent already have.

Choice in the United States is a well established principle. We take it for granted when we choose our shelter, clothing, food and personal belongings. Choice is also an inherent feature of many federal programs -- including food stamps, Medicare, G.I. Bill, and Pell Grant programs. Family choice for elementary and secondary education is also a widespread — and, I believe, a legitimate -- element of our democratic government. I think it is fair to say that the education of our elementary and secondary school children is, in certain respects, coercive. The length of compulsory schooling is far longer than any military draft ever attempted in this country. The Americans subject to our compulsory educational laws are at their most impressionable ages. Educating children is the most sensitive and value-laden effort that states undertake. Recognizing this, the right to choose a school has, on important occasions, become a matter of constitutional status. I refer, of course, to Pierce v. Society of Sisters and related decisions by the United States Supreme Court. 1/ Today, education choice enjoys widespread acceptance, as well as continued constitutional protection. The ongoing debate is not over whether, but how government should support this goal.

The Many Faces of Choice:

A Partial Tour of the U.S.A.

A common misunderstanding of education choice limits the concept to the choice that a small number make (affecting about 12% of school-aged children) to educate their children at private schools. Yet this is not, in fact, the most widespread example of education choice that families exercise. Furthermore, private schools are only one aspect of choice within the nonpublic sector. Choice also includes home instruction or correspondence courses leading to a general equivalency diploma (GED). Today, however, the most widely exercised choices involve public schools. Most families with the means to do so choose their child's public school by selecting their residence in the "right" attendance area. Beyond this, state and local governments and, to some extent, the federal government, have sponsored myriad programs that permit some education choices in their jurisdictions. A quick survey of these activities will set the stage for a review of research on the subject.

Rural Areas and Small Towns: the Vermont and Maine Experience

Education choice takes many forms. While it appears more frequently in urban areas, the oldest existing publicly-sponsored choice programs in the United States were developed in Vermont and Maine to avoid the proliferation of inefficiently small schools in sparsely populated areas. Today, 95 Vermont towns have no public high school and do not belong to a union high school district. Of these 95 towns, 25 also have no elementary school. Under State law, these towns may designate a school (public or private), or pay tuition at a school chosen by the family. The town pays an amount equal to the State average for union school districts, ($2,675.67 for a high school student in 1983-84). If a private school is designated as the town's school, it must accept this support as payment in full. If there is no designated school, and parents select a school where tuition is more, the town has the option of paying it, or leaving it to parents to contribute the balance. (McClaughry, 1984; Nathan, 1985.)

Towns throughout Vermont have adopted different strategies. For example, Lyndon, Vermont designates the Lyndon Institute as its high school. Parents occasionally obtain permission to send their children elsewhere, but usually the town denies such requests. St. Johnsbury, despite the presence of St. Johnsbury Academy, has not designated any school. It allows its more than 400 high school age students to choose any school. Almost all of the students attend the Academy; a few attend other public and private schools. Whatever the choice, the town pays each school a set amount -- around $2,700 per pupil. Parents pay the rest. (McClaughry, 1984.)

In nearby Maine, a similar program is in place. About 160 towns lacking high schools pay tuition for their students at other districts' public schools or at approved private schools. (Lines, 1985b; Nathan, 1985.)

Choice with Desegregation as a Goal

Many state and local education agencies have developed choice programs to help achieve a better racial and ethnic balance in their schools. Choice programs appear to be less coercive and more effective than any other available policy in achieving this goal. Some examples follow:

- Magnet Schools. Milwaukee, Hartford, St. Paul, San Diego, Wake County (Raleigh) N.C., and many other cities have successfully developed enhanced education programs and placed them in predominantly minority areas to help attract more children into those schools on a voluntary basis.

- Open Enrollment. Many districts provide opportunities to choose another school in the same district, monitoring the transfers to be sure that they enhance racial balance in both sending and receiving schools. Cambridge, Massachusetts, for example, has made the entire city into a single attendance area, with every school available to every child, provided that the aggregate choices meet State racial balancing goals.

- Limited Transfer Options. Some districts permit transfers from specific schools to other specific schools, making available only those choices that will enhance racial balancing goals. Minneapolis, for example, permits choice among schools within an assigned cluster.

- Interdistrict Transfers. Some metropolitan areas have developed city-to-suburb transfer programs to assist in racially balancing schools. Boston's Metco Program and Hartford's Project Concern were early examples of this type of program.

Alternative Schools

Communities have established "alternative schools" for reasons quite apart from the need to achieve desegregation. Racially homogeneous communities such as Eugene, Oregon have turned to a system of alternative schools for the opportunities they provide. The Bronx High School of Science in New York City and Boston Latin School were established well before desegregation was an issue. Alternative schools often offer special programs or are designed for groups of students with particular educational needs: those who do poorly in conventional school settings and those who are especially able. A recent survey of alternative schools discovered some 2,500 such programs in the United States. (Raywid, 1982.)

Interdistrict Transfers

In states that permit state public school aid to follow the child, interdistrict transfer becomes economically viable. For example, in Tennessee, about 40% of the State's school districts now allow students to choose any school within the district, and 31% permit students to go to any district in the county, with funds following the student. Twenty-eight out of 143 districts draw 10% or more of their students from other districts. Some districts also charge extra tuition to nondistrict students when the sending district's per pupil expenditure is less. Governor Lamar Alexander is considering legislation to authorize the State to pay the difference for low-income students.

Choice for Dropouts

Since 1977, the State of Washington has helped support educational clinics that work with students who have dropped out of secondary school. Ten such clinics are certified by the State today. Most are run by private, nonprofit organizations, including an Indian tribe and social service agencies; two are operated by a for-profit group. The for-profit organization registered the greatest gains for its students at both clinics in the most recent year. (Lines, 1985b.)

Choice for Handicapped Children

Under the Education for All Handicapped Children Act (P.L. 94-142), private placement of an eligible child may turn out to yield the most appropriate education program. While parents do not have an automatic right to full tuition from the state to support their choice of private school, they do in fact participate in the decision concerning the individualized education program (IEP) for their child. State and federal laws provide for tuition if an appropriate education means placing a child in a selected private school. More than 150,000 out of 4.3 million handicapped children now benefit from the expanded opportunities due to private placement mandated in their IEPs. In addition, another 75,000 children receive federal support under provisions of the law requiring that resources be made available to handicapped children enrolled in private schools of the parents' choice.

Recent Activity in the States

Educational choice is spreading. For example, in the past year Colorado, Minnesota, and South Dakota have passed laws providing greater educational choice. Colorado incorporated aspects of the Washington education clinic idea in its new Second Chance Pilot Program for Problem Students. Eligible students are dropouts between ages 16 to 21, and children between 14 and 21 who are recommended by local school officials. Once enrolled in the program, students may remain there until they earn a high school diploma or its equivalent, or reach the age of 21. A child can be dropped from the program, but can reapply. Eligible schools include public schools in districts with a dropout rate above the State average, or in contiguous districts; schools operated by special boards of cooperative services; schools offering vocational, technical, or adult educational programs; and schools operating under contract with a public school district. (An earlier version of the bill would also have permitted private schools to participate.) (Lines, 1985b.)

Under the new Minnesota law, 11th and 12th graders may enroll full or part time in nonsectarian courses at either public or private postsecondary institutions. Participation is limited to 4-year private colleges and universities, but includes all public postsecondary institutions. A portion of the State aid available to the school for that pupil can be used to pay for postsecondary tuition and materials. The State will pay any extra amount needed and will also reimburse low-income parents for transportation costs through local education agencies. The local district must grant credit for courses taken. There is an appeal to the State in case of disputes over how much credit should be granted. The State Department of Education has taken the position that students enrolled in nonpublic schools are not eligible. Otherwise, the plan is extremely innovative. Minnesota did not pass other aspects of its governor's proposal, namely those that would have created special State schools and facilitated interdistrict transfers. (Lines, 1985b.)

As part of an omnibus education package developed by Governor William Janklow, the South Dakota Legislature included a "family option" program for districts with very few high school students. Under this program, parents in districts with 35 to 45 high school students in grades 9 to 12 may enroll their children in high school in an adjacent district. The State will pay a tuition fee set by statute. The receiving school district must accept this State tuition as full payment. If a district has fewer than 35 students, the option disappears, and so does State foundation support. After this law passed, citizens successfully campaigned to have a statewide referendum on the plan. It will appear on the ballot in November, 1985. If the plan goes forward, South Dakota offers an opportunity to examine the use of family choice as a way to implement rural school consolidation. (Lines, 1985b.)

A Brief Review of Choice in Selected Other Democratic Nations

What do Other Democratic Nations do about Educational Choice?

While the literature on this subject is not as extensive as we would like for present purposes, it is clear that -- in contrast to the United States -- a number of other countries provide significant government support for private as well as public education. There is value in comparative educational research regarding international education policies and practices in that we can become knowledgeable not only about the educational choices which are available in various countries, but also the effects of those choices.

The experience of the Netherlands is particularly interesting in illustrating how a representative democracy has found a way to accommodate a variety of parental preferences with public funds. Indeed, "Since the early part of the 20th century, public and private primary schools in the Netherlands have been fully financed by the national government on a virtually equal basis." (Williams et al., 1983.) Groups of like-minded parents may secure public funds to start a school as long as certain basic minimum requirements are met, including a minimum number of students (from 50 to 125, depending upon the size of the community). (Heard, 1982.) Approximately 70% of primary school students and 66% of secondary school students attend private religious schools. (James, 1984; Williams et al., 1983.)

The Dutch system is well summarized as "...a system of institutional funding..." which "...in many ways resembles a voucher-type arrangement. Parents can choose to send their child to any type of school, public or private, and the central government meets the cost of providing that child's education." (Williams et al., 1983.)

In Canada, public assistance to sectarian schools was institutionalized in 1867 at the time of Confederation. Various provincial education finance arrangements evolved after the provinces were granted constitutional authority for education. These ranged from informal arrangements in some provinces to support for a fully sectarian system. The last Canadian province to provide financial assistance to private schools was British Columbia, which in 1977 began a program characterized as "a per pupil grant linked to public school costs." (Williams et al., 1983.)

Australia, according to Williams et al. (1983), "is one of the few federal countries in which extensive aid to private education is provided by the national government." Funding arrangements vary, but may include general operating aid, block grants for capital costs, categorical aid, and three target group programs for "the handicapped, children from low socioeconomic and limited English-speaking backgrounds." Families can also claim a tax credit or deduction on their federal income tax for expenses incurred for private school costs. (Sherman, 1982.) With regard to proportion of funding, "General operating aid represents about 85 percent of aid to non-government schools and is distributed through a formula that resembles the percentage equalizing grants used by many States in the U.S... With additional per pupil funding from state governments, combined federal and state funding of private schools is about 60-65 percent of average government schools costs." In recent years the enrollment in non-government schools has reached 23% and some further growth is anticipated as a result of recent provisions for start-up grants for establishing additional private schools. (Williams et al., 1983.)

In Denmark, freedom of choice has been a major theme and value of Danish education for over a century, predating even the establishment of compulsory education in the early nineteenth century. Today, Danish parents and minority religious groups have the right to start their own schools at public expense as long as these schools contain a minimum number of children. These schools can obtain loans from the government on favorable terms to meet their capital costs. Further, the government provides subsidies to various kinds of non-public schools for up to 85% of their operating expenses. (Doyle, 1984.)

Parental choice of schooling in England is promoted through various types of subsidy for private schools. For example, most schools affiliated with a religious denomination, such as the Church of England and the Roman Catholic Church, receive government support for all of their recurrent costs and 85% of capital costs. A recent (1981) development of significance is the Assisted Places Scheme, wherein a group of schools, mostly elite independent schools with high academic reputations, receive financial assistance for educating "able children from less well-off homes." The participating independent schools "reduce or waive the fees charged to parents of academically eligible children on a means-tested basis, and then reclaim the residual cost of the places from central government." (Edwards, Fitz, and Whitty, 1985.)

Research on

Equity in Education Choice:

Who Has It? Who Wants It?

There are two different kinds of research on choice today. The first addresses some simple questions about who desires choice and who exercises it at present. It is based on survey research and yields some relatively clear findings. The second kind of research addresses issues of effects or outcomes of choice policies and presents greater problems to the researcher.

Who Wants More Education Choices?

Americans who want more educational choice tend to be those who presently enjoy it the least. Several recent public opinion polls provide evidence of the widespread desire for education choice and the diversity of the public favoring it. A Gallup Poll sponsored by Phi Delta Kappa 2/ and conducted in May 1985, with a sample of 1,525 adults, revealed considerable support for greater education choice. One question inquired about education vouchers that would allow parents to send their children to any public, parochial, or private school they choose. Those who favor the idea include:

- Parents with children in school (51% favor);
- Blacks (59%);
- Central city residents (53%);
- Big-city residents (54%);
- Young adults of child-rearing age (55%);
- The poor (grade school education) (43%);
- Those who judge their local schools least satisfactory (52%); and
- The general public (45%).

The Gallup Poll found that those more opposed than favorable to the voucher idea include:

- The more affluent (college educated) (46% oppose);
- People most satisfied with their local public school (46% oppose);
- Older people (over 50) (45% oppose); and
- Rural, suburban, and median-sized city residents (44, 50, and 51% oppose).

Among those most strongly favoring vouchers were Blacks (59% favor to 26% oppose), followed by central city dwellers (53% to 32%), those in communities over 1 million (54% to 30%), and those aged 18 to 29 years (55% to 31%). (Further details on results are in Table 1.)

The Poll found that, among parents with children in school, 51% favor vouchers, 40% oppose, and 9% have no opinion (see Table 1). Not surprisingly, the 12% of families who send their children to private or parochial schools strongly favor vouchers. About 63% of them support vouchers, while 32% are opposed and 5% have no opinion. Public school parents also favor vouchers by a plurality of 49 to 41%. (See Table 1.)

Adult Americans with only a grade school education favored vouchers by 43 to 34%, while those with a high school education supported them by 47 to 36%. The college-educated opposed vouchers, 46 to 43%.

Those who grade their local public schools "C", "D", or "F" favor vouchers by a considerable margin (52% favored, 36% opposed). Among those who graded their local schools "A" or "B", 42% support vouchers, while 46% oppose the idea.

Overall, Gallup reported that 45% of all Americans now support education vouchers; 40% are opposed; the remainder had no opinion. In 1981, Gallup found that 43% of the public favored vouchers and 41% opposed.

A second item in the 1985 Gallup Poll assessed attitudes towards the recent increase in church-related and other private schools. The pollsters asked whether respondents thought the recent increase "a good thing or a bad thing for the nation?" By more than a two to one ratio (55% to 27%), the public welcomes the increasing number of private schools. Parents support the increase by an even greater margin, including both public (56% to 26%) and private (71% to 21%) school parents. Since 1981, when 49% approved and 30% disapproved, public support for the increase in private schools has grown.

Another public opinion poll reinforces the finding from the 1985 Gallup Poll that minority group members and low income people are among the strongest supporters of greater education choice. This 1982 poll was sponsored by the Congressionally mandated National School Finance Project of NIE. The poll asked a random sample of public school parents how likely they would be to send their children to private schools if they could claim a $250 tuition tax credit. (See Table 2.) Some relevant responses from the "very likely" category are shown below:

- All respondents (9.2%);
- Whites (6.3%);
- Blacks (18.2%);
- Hispanics (19.8%);
- The poor (12.9% earning under $7,500, and 17.9% earning between $7,500 and $14,999); and
- Large city residents (18.1%).

Who Chooses Private Education?

Private education is an important alternative, and several significant changes are taking place there. First, the choice of a private school is slowly becoming more popular. Second, the private school sector is becoming increasingly diverse, with Catholic schools accounting for a smaller share of the private sector. Third, home instruction seems to be on the increase.

According to a recent survey conducted by the U. S. Department of Education's National Center for Education Statistics (NCES), [2] 5.7 million students from pre-kindergarten through grade 12 were enrolled in 27,700 private elementary and secondary schools in the fall of 1983. (See Table 3.) Since 1980, the date of the previous NCES survey, private school enrollment increased by about 400,000 (a significant part at the pre-kindergarten and kindergarten levels) and the number of schools rose by 3,200. In contrast, public school enrollment declined by 1.7 million and the number of public schools fell by 1,700 during that period. As a proportion of enrollment, 12.7% of students were in private schools in the fall of 1983 compared to 11.5% in 1980. (NCES, 1984b.) (See Table 3.)

The recent growth in private school enrollment contrasts with the period between the mid-1960s and the mid-1970s when private school enrollment declined. However, the enrollment decline in Catholic schools since the mid-1960s has only slowed, not stopped. It is also noteworthy that enrollment is growing among the non-Catholic religiously affiliated schools and unaffiliated schools. (See Table 4.) Among those in the former category, evangelical Christian schools are probably the fastest growing. A study sponsored by the National Institute of Education (NIE) [3] reports that enrollment in evangelical Christian schools increased from 759,000 to 913,000 between 1981 and 1983, an increase of over 20% in just two years. Among unaffiliated private schools, enrollment has increased notably in special education schools. About 45% of all unaffiliated private school enrollment is now in special education schools. (Catterall, 1985.)

Those whom polls suggest are most interested in increased education choice — Blacks, Hispanics, and the poor — are least likely to be enrolled in private schools. (NCES, 1984a; Coleman et al, 1981.) Data from the Current Population Survey of the U. S. Bureau of the Census also show that choice of private school increases with family income. (See Table 5.) In October 1982, private school enrollment rates ranged from 3.3% among students whose family income was less than $7,500, to 31.0% among those whose family income was $75,000 or more.

The data in Table 5 show private school enrollment rates by racial-ethnic group. Private school enrollment rates are highest for whites (11.2% in 1982), followed by Hispanics (8.7%) and Blacks (4.4%). These rates have remained about the same for the past decade or so. (Bianchi, 1982.)

Minority enrollment in Catholic schools is relatively greater than in all private schools and has been increasing. In the 1983-84 school year, minorities made up over 20% of Catholic school enrollment; Black enrollment alone amounted to 8.6% and Hispanic enrollment, 8.9%. (See Table 6.) Furthermore, in a number of urban archdioceses and dioceses, minority enrollment is over 60%. (Sherman, 1984.)

Also of interest are the differences among whites, Blacks, and Hispanics in private school enrollment rates across income categories (Table 5). Compared to whites, Blacks and Hispanics are relatively more likely to go to private schools if their family income is higher. Private school enrollment rates among students whose family income is less than $7,500 are lower for Blacks and Hispanics than whites (1.7, 2.9, and 4.4% respectively). But Hispanics are more likely than whites to go to private schools if their family income is above $15,000, and for Blacks, above $50,000.

A similar finding is reported in a U. S. Department of Education study by Jay Noell and David Myers (1983) that estimated the sensitivity of private school enrollment to tuition levels and family income using Current Population Survey data from October 1979. That study found that nonwhites are much more likely to enroll in private schools if the economic burden of private school tuition decreases, because of a scholarship for example, or if family income increases. In technical terms, nonwhites have greater price and income elasticities regarding private school enrollment than whites.

Private school enrollment is also associated with residence in a standard metropolitan statistical area (SMSA) and in certain regions. (See Table 7.) The private school share of enrollment is highest in central cities, next highest in suburban areas, and lowest in nonmetropolitan areas (outside SMSAs). Between 1979 and 1982, according to Current Population Survey data, private school enrollment declined in central cities, while increasing in suburbs and nonmetropolitan areas. Among regions in 1982, private school enrollment share was relatively greatest in the Northeast, followed by the North Central region, the West and the South.

Religious background is also associated with private school enrollment. (See Table 8.) Based on data from NCES's High School and Beyond survey (reported in Coleman et al, 1981), Catholic, Episcopalian, and Jewish students are more likely to enroll in private schools. Although Baptists and Lutherans also have a large number of private schools, they are relatively more likely to go to public than private schools. NCES data do not separately identify the newer evangelical schools, but this group, according to recent studies, is the fastest growing. (Catterall, 1985.)

The private education sector also contains children who are schooled at home. Data here are conspicuously weak. The most informed estimates, based on reports from those supplying home instruction materials, place the number at 25,000 minimum; it could exceed 50,000 children of compulsory school age (roughly grades K-8). (Lines, 1985a.) Regardless of the estimates used, the total number of families attempting home instruction is still relatively small, and the overall growth of the movement is probably also relatively slow. The oldest supplier of home-based curricular materials, Calvert School, reports little change in 50 years. But the newer Christian-oriented suppliers are growing rapidly. Of course their materials are also purchased by schools, not just by parents. Furthermore, many of the purchasers of instructional material with a Christian emphasis can be expected to form schools as that movement develops further. The burden of home instruction is one that few parents can sustain for a long period. (Lines, 1985a.)

Even less is known about the characteristics of families who choose home instruction. Observers believe that in the sixties they tended to be college-educated persons concerned that available schools were too conservative. Today, they seem to be more diverse both in their socio-economic backgrounds and in their goals for home instruction. Home-schoolers are more likely to keep younger children at home and send older children to school. Often parents "burn out" regardless of the age of their home-schooled children. (Lines, 1985a.)

Finally, the private education sector includes a sizeable number of young Americans who choose to complete their high school training on their own, through publicly-sponsored programs or correspondence courses, or by taking a high-school equivalency examination, such as the GED or General Educational Development tests sponsored by the American Council on Education. A total of 676,235 persons took this examination in 1984; of these, 213,690 were under 19 years of age. Data from the spring of 1980 indicate that whites and Hispanics accounted for 78% of those taking the GED; Blacks and other minorities comprised 22% of the group. Since then, the relative number of Blacks has increased. (Malizio and Whitney, 1981.) Of those who responded to a questionnaire, 49% of those taking the GED planned further study; 49% also reported that they did in fact undertake additional training. This, too, represents a choice — one that is particularly significant for other students and those who are uncomfortable or dissatisfied with their conventional secondary school experience.

Who Exercises Choice Among Public Schools by Choosing a Residence?

Public school parents in substantial numbers "choose" schools for their children by selecting a home in the attendance area served by the school they prefer. Both the national survey conducted in connection with a congressionally-mandated study of school finance (Williams et al., 1983) and a Minnesota study of parent choice found that about 53% of public school parents say they took the local schools into account in choosing their residence. Parents who themselves are relatively well-educated and economically well-off choose their neighborhoods for the schools more commonly than do poor and less educated parents. Racial background is also correlated with this kind of choice: white and Hispanic parents are more apt to exert choice through selection of residential location than are Blacks.

These surveys also reveal that one out of five public school parents considered other educational alternatives before sending their child to the current public school. Only 38% of those surveyed had not exercised choice in either of the two ways discussed.

These figures suggest that a majority of public school parents do actively choose their child's public school and that choice is linked to parents' social and economic conditions. Choice through residential location is least often exercised by parents who are Black, poor, or located in a rural area. Of course, they can least afford it.

Who Takes Advantage of Other Public School Choices?

As noted above, there is also a broad range of choices among public schools through magnet, open enrollment, alternative schools, and other programs. Low-income and minority families are more likely to make these choices than to choose private or public schools in a selected residential location. Surveys of families in alternative schools indicate that these schools do offer real options to parents of lower socio-economic status: some 37% of these schools serve students from predominantly (60% or more) lower-class homes. Another 24% serve 60% or more middle-class students, and the remainder show no special income concentration. (Raywid, 1984.) The data for magnet schools are mixed.

Mary Metz reports in a detailed case study of three magnet intermediate schools that parents choosing magnet schools do not always know in detail the content of the education program they are selecting. Her analysis suggests that the magnet school for the gifted and talented attracted a long waiting list of more affluent or ambitious parents simply by virtue of its label. In fact, one school did not offer a particularly distinctive academic program. Other magnets offering programs tailored to particular learning needs had more trouble attracting students. These schools expended considerable effort explaining their distinctive programs to parents who had not understood them when they chose to enroll their child. (Metz, forthcoming.)

One major study — discussed in detail below — examined an experimentally designed open enrollment plan in Alum Rock, California, as well as choice plans in three other cities. Data from Alum Rock, collected from 1972 through 1977 indicated that when given a choice between "traditional classrooms," i.e. self contained, and "open classrooms," the overwhelming majority selected "traditional." However, of parents with incomes over $15,000, 26% selected "open classrooms", while only 11% of parents with incomes under $15,000 selected "open classrooms." (Bridge and Blackman, 1978.)

Research on Effects of Education Choice

Research that establishes causes and effects is often more difficult to design and conduct than opinion or descriptive surveys. There is less of this research and what there is is less conclusive, but there are some interesting findings. This section reviews this body of research. It begins by examining the effects that choice advocates hope to achieve.

The Goals for Choice

One could pursue a policy of education choice simply to extend to less fortunate Americans those opportunities presently enjoyed by more fortunate Americans. In my view, this would be a good reason in itself. There are other grounds for extending education choice, however. These can usefully be grouped into four main themes.

Equity. Advocates of choice believe it fosters equality of opportunity. They offer various theories as to how this is true. They make two chief points — the desirability of choice as a principle of equal value for all, and the potential favorable impact that choice would have on the achievement of minority or disadvantaged students. The first, as already noted, is based upon the observation that "the wealthy currently enjoy a wide variety of choices in the public and private sectors, while the poor have few or no alternatives to the public school." (Williams et al., 1983.) Accordingly, society should assist low-income families so that they can exercise the same kinds of educational choice as upper-income families. This value judgment is based on one of the most fundamental philosophical principles of democracy. There is no need for millions of dollars in research before acting on the basis of this premise.

The second premise — that choice enhances achievement among minority and low-income students — can be and has begun to be tested empirically. The evidence on this point, which will be discussed in the review of the research that follows, rests largely on findings that private secondary schools are producing higher cognitive outcomes for these children than are public schools. (Coleman et al., 1982; Hoffer et al., 1984; Greeley, 1982.) Therefore, if poor children are afforded more opportunities to attend private schools, they might enjoy an increase in achievement without detrimental societal or individual effects. While the research is not conclusive, it is at least suggestive.

Competition. A certain amount of competition already exists within the public education sector. Many parents have the economic independence to choose residential location, and thus choose the "right" public school attendance area. A few can also choose among schools in a neighborhood. (Peterson, 1980.) But advocates of choice believe that competition should be enlarged and that substantial improvement in program quality would ensue if market incentives were stronger. These theorists maintain that public school unresponsiveness is mitigated where parents are able to reject poor programs in favor of other options. Tuition aid or vouchers, for example, they maintain, would force public schools to be more responsive and to provide more desirable programs. (Toma, 1980; West, 1981.) It should be noted, however, that parents will not invariably prefer more demanding programs. Hence the second proposition (more desirable programs) is not always a natural corallary of the first (more responsive). Further, many people believe that educational diversity is inherently preferable to uniformity, homogeneity, and monopoly, and that therefore society should assist education choices. To the extent that competition encourages diversity, it, like equity, becomes a goal in itself. However, the argument in favor of diversity goes beyond mere theory or goal transformation--it is part and parcel of the commitment of a democracy to meeting diverse individual needs and interests.

Centrality of the Family. Many citizens are concerned that parental prerogatives have been usurped by the state or rendered obsolete by social change to which the public school system has not adjusted. Individual and family rights, community values and structure, and social pluralism, in their view, have been subordinated or sacrificed to the present system of public education. They believe that the state has arrogated to itself the parental right to shape the education of the child, and that public schools convey majoritarian beliefs, values, and philosophies or a homogenized orthodoxy that loses sight of other values and distinctive beliefs. If this is so, then schools may fail to develop "independent moral judgment" in the young of this country, may be dominated by elites, and may lack any "foundation of genuine consent based on shared meanings voluntarily held in common." (James, 1984.)

A related position, also supportive of the family but less hostile to the state, holds that school policies at all levels have weakened the bonds and functioning of the community that enable parents to fulfill their essential role in their children's schooling. It argues that schools that serve a truly functional community provide for "intergenerational closure" -- the web of information and relationships that binds parents and children, youngsters and adults. It rests on an assumption that the current basis of school community -- residential proximity -- no longer serves us well. This position suggests that we must take advantage of other sources of community, such as religious communities or the workplace, to further develop our educational system. (Coleman, 1985.)

School-level Sovereignty. Another theory undergirding choice addresses the detrimental effects on school quality of increased centralization of education policy. Those concerned about this believe that greater school level sovereignty would be beneficial. They believe that choice will make individual schools more responsive to parents, and more independent of central forces.

The concept of school-level sovereignty and its role in educational choice rests upon a variety of interrelated findings and beliefs about public policy and education. Many observers believe that extreme efforts to forge and implement state-wide or city-wide policies bearing on school operation and outcomes — and related efforts to improve effectiveness through "accountability schemes" — contribute to the formation of a centralized, standardized, and bureaucratized system of education that is both inefficient and dysfunctional. (Wise, 1979.) Elected state officials, propelled by both professional and political concerns, are further centralizing state control of education. This trend leads to more standardized policies, regulations insensitive to local variation, and conflicting mandates that reduce the bounds of local sovereignty while widening the limits of state regulation. (Doyle and Finn, 1984; Kirst, 1984.) In marked contrast to the trend, the evidence suggests that what makes schools effective and facilitates improvement is not further centralization. Schools cannot simply be regulated into organizational conformity if they are to be really good schools. Good schools are unique. Each possesses a vision, values, a consensual rather than hierarchical governance system, and an enormous amount of psychic and emotional 'investment' by participants, that blur the boundaries between the private and organizational lives of their participants. Given this description of schools, the irony of mandated state reform is that it attempts to compel change among poor schools, where it is least furthest along. (Finn, 1984; Kirst, 1984.) Choice, some analysts believe, can help reverse this centralizing trend, provided it entails enough autonomy for the individual school.

These various theories do not necessarily point toward the same public policies. Theories based upon equity might suggest reliance on market mechanisms or they might suggest economic subsidies to poor and minority populations to assist them in gaining greater equity. They might lead to choice systems with some constraints intended to assure racial, social and economic balance in individual schools. Meanwhile, theories based on the expected benefits of competition might lead to a voucher type of program, perhaps accompanied by competition-enhancing policies such as better information, means of handling school "admissions" in an even-handed manner, and so forth. Theories based upon family privacy might lead to efforts to teach traditional values in existing public schools, or they might lead to public school voucher programs or to direct support for private schools. Theories based on school sovereignty might lead to a statewide public voucher system or they might lead to the strengthening of school-level governance arrangements within existing systems. Obviously, the puzzle we call "education choice" has many parts.

Background on the Research on the Effects of Choice

In addressing the question of the effects of choice, we find a number of predictable difficulties that are encountered whenever a new social program is being considered. Ideally, from a research point of view, we could conduct an experiment on various types of choice policies. Unfortunately, it is likely that a true experiment would go beyond the bounds of law and research ethics, particularly if it would involve randomly assigning some students to different schools without their or their parents consent, while at the same time permitting others to make choices. Only one major choice experiment has been conducted (in Alum Rock, California), but it was greatly restricted to accommodate State law and local concerns. As an alternative, we can also compare the achievement and behavior of students who choose different types of public and non-public schooling, controlling for background differences through statistical procedures rather than through expected design. (An example of this type is Keith and Page, 1985.) It is important to note, however, that both experimentally and non-experimentally designed research conducted on choice to date is limited in several ways:

- There is little empirical evidence based on studies in the American context about some of the most widely discussed choice mechanisms. This is not surprising because, for the most part, these mechanisms have not been tried.

- A number of the empirical studies that have been done yield limited results either because of flaws in the study design or inadequacies in the execution of the programs being studied.

- Much of the research evidence refers to attitudes, not to data on achievement.

- There have been few longitudinal studies, hence, it is hard to know what all the long-term effects of choice may be.

- Survey research is complicated by the fact that schools of choice generally differ from the typical public school in important ways. For example, public alternative schools are often selective, specialized and more attentive to the individual needs of student than would be possible for general public schools. Private schools are also smaller, more focused in their curricular offerings, and more autonomous than their public counterparts. (Chubb and Moe, 1985.) Moreover, as already noted, many families can and do exercise important choices among and within the regular public secondary schools.

The discussion that follows must be read with these cautions in mind. Taken as a whole, the review of the research below suggests that students will do better in schools that their families choose, especially lower-income and disadvantaged students; that such schools do not adversely affect racial balance and may, given the proper design, help promote racial balance in the schools; and that programs to expand choice are not inimical to public education.

Background on Alum Rock

The most ambitious longitudinal study, with many experimental design elements, is commonly known as the Alum Rock Study, although three additional cities were added to the study midway through the project. This project began in the late 1960's as a test of the tuition voucher idea. In order to promote parental choice among schools, while guarding against the potential deficiencies of an unregulated market, the U.S. Office of Economic Opportunity (OEO) contracted with Christopher Jencks and his colleagues at the Center for the Study of Public Policy (CSPP). They designed a "regulated compensatory voucher" demonstration. (Jencks et al, 1970.)

It provided detailed admission policies permitting applicants their choice of schools and schools their choice of applicants within rules designed to prevent discrimination. CSPP also recommended plans for an Education Voucher Agency, independent of the participating schools, to administer voucher distribution and accounting, oversee school quality, and provide consumers with the information needed to make informed choices. Many of these recommendations were adopted by OEO, and subsequently by the National Institute of Education (NIE), which assumed responsibility for the project when OEO was dismantled. NIE then searched for school sites to test the voucher concept. The State of New Hampshire and the East Hartford, Connecticut school district expressed interest and received planning grants. After the planning stage, however, both sites chose not to apply for an implementation grant. For a variety of reasons, Alum Rock, California was the only district to accept this challenge.

Alum Rock is a small independent district with 24 schools located within San Jose, California. At the time of the experiment, the district was relatively poor in terms of both property values and family income. Alum Rock had one of the lowest assessed valuations per student for California districts of its size. Most of its residents were lower-middle or lower class; many had not completed high school, or college. Many worked at unskilled or semi-skilled jobs. In 1972, more than a third of the families qualified for welfare, and three-fourths of the students qualified for subsidized lunch programs. A large percentage of the students were Black or Hispanic. Despite the district's poverty, most parents expressed general satisfaction with the schools and the education their children were already receiving. Thus, neither concerns about desegregation or dissatisfaction with the existing school program provided the impetus for an alternative program. The main goal seemed to be a desire to bring in extra federal money. (Bass, 1978.)

Alum Rock agreed to participate only if certain limitations were imposed on the experiment. In the first place, representatives of parents would approve the plan only if those who wished to remain in traditional programs in their neighborhood schools were guaranteed the right to do so. Second, the California Legislature failed to pass timely enabling legislation permitting participation of private schools. (In addition, no private schools were then operating in this poor district, so no entrepreneurs were actively pressing for such legislation.) Furthermore, when the legislature finally permitted nonpublic schools to enter the demonstration project in the fall of 1973, the enabling legislation was quite restrictive (largely due to the efforts of such public education groups as the California Teachers Association). The new law permitted public monies to flow only to schools under the "exclusive control" of local authorities. It provided that the local certified employee councils (the professionals' bargaining agent) could formally review all policies in each voucher demonstration. Finally, it required that all participating schools be subject to district rules concerning teacher certification, curriculum standards, and student discipline, as well as other general rules and regulations. When a group of young teachers did offer a nonpublic school alternative that conformed to these terms, no parents chose it.

The limited experiment began slowly, in 1972. Initially only six schools that were already committed to decentralization agreed to participate. All six were similar in curriculum and method. To encourage greater competitive diversity, NIE and the Alum Rock district developed a "mini-school" plan in which each voucher school would offer at least three different programs for parents to choose from. Teachers with similar ideas and interests cooperated to create mini-schools that differed from each other in curriculum or instructional method. At the peak, in 1974-75, there were 14 participating schools, offering 51 mini-school programs. The experiment tapered off quickly with the 1975-76 school year, when the superintendent took a year's leave of absence.

The Rand Corporation was responsible for evaluation, which took place over five years. Early on, NIE and Rand decided that the limits placed on the original plan had in effect converted the experiment into an open enrollment program with alternative public schools. Consequently, they decided to focus the evaluation not on vouchers, but on open enrollment. To enrich the data, they also gathered information from Minneapolis, Cincinnati, and Eugene -- all of which offered extensive choice among public schools. The Rand study provides helpful insights into the impact of education choice on parents, teachers, administrators, schools, and students. Hence, it will figure most prominently in the survey of the research provided here.

Background on "High School and Beyond"

Other work that will also be mentioned frequently will be analysis of the "High School and Beyond" surveys conducted by the Department's Center for Statistics (formerly the National Center for Education Statistics). Many researchers have found this data base a rich source, and used it extensively in searching for relationships that might provide clues to causal factors influencing student achievement.

Review of the Research Findings on Effects of Choice

Effects of Choice on Students. In Alum Rock, attendance at a regular or alternative school made no appreciable difference in students' reading achievement, nor did it significantly affect their social, self, or peer perceptions. Furthermore, when parents actively chose a school, their children did not score higher (or lower) on reading achievement tests as a result of this choice. This study suggests that if choice and diversity are desirable in and of themselves, they can be pursued without hurting student achievement. Beyond that, the results are mostly inconclusive or attitudinal, most likely because of the limitations of the demonstration itself.

Other research shows more favorable effects of choice on student attainment. This research compares children in public schools with those in private schools. Although much debated, two important studies of the data from the "High School and Beyond" surveys have found such an impact on secondary school students. (Greeley, 1982; Coleman et al., 1982.) Using two different methodologies, Coleman et al and Hoffer et al on the one hand and Greeley on the other hand found that students in Catholic high schools gained a year or more on standardized achievement tests, compared to public school students. The variables analyzed included family income and social structure, parental education and occupation, parental expectations, region of the country, and urban/rural residence.

In the spring of 1982, more data became available allowing examination of achievement growth for the 1980 sophomores in the study (then in their last year). Coleman et al, Hoffer et al, and Greeley repeated their earlier analyses. Once again, the Coleman and Hoffer teams applied one methodology, Greeley another. They felt that similar results based on different methodologies added to the robustness of the findings. Again both found a definite Catholic school effect on basic verbal and mathematics skills. They found no effects in science and civics. The favorable effect of Catholic schools was more pronounced for Blacks and Hispanics, and children from lower-income families. They noted that the effect could not be due to a higher expulsion rate among Catholic schools. In fact, individuals with disciplinary problems in Catholic schools were more likely to be still enrolled in the same school two years later, compared to individuals with disciplinary problems in public schools. They also noted that the dropout rate was much higher for the public school students.

These findings have been challenged on grounds that the Catholic school students are a more select group, and not all relevant factors were controlled. A recent analysis of the High School and Beyond data by Timothy Keith and Ellis Page (1985) employs path analytic techniques to control for both family characteristics and student ability to compare minority achievement in Catholic and public schools. While still finding some benefit for minority achievement in Catholic schools, the benefit was considerably less than that found by the Coleman and Greeley studies. (Keith and Page, 1985.)

A number of other studies of choice suggest that students thrive when they are enrolled in programs that match their personal and academic needs. Schools of choice seem to meet this goal with ease. Public alternative schools typically are tailored around special student interest and needs as are better-planned magnet schools. (Raywid, 1982; Blank, 1984; Metz, forthcoming.) Many private schools also offer programs consciously framed around the kind of students they expect to serve. They may turn away students who do not match the school's program or who do not share the values and behavior it expects students and their parents to exhibit. Studies of private schools (Erickson, 1982) and of public schools of choice report better student attendance and commitment than in the average public school.

Not every school of choice offers a coherent program tailored to student needs. Where this feature is absent, schools of choice appear to do no better than other schools. Blank (1984) reports that among the magnet schools he studied, the best performance was achieved by those that had strong central office support, energetic and able leaders and teaching staffs, and well-planned programs. Magnet schools that had been hastily devised or operated without central support were no better than average. One would hardly expect them to be.

The State of Washington's Legislative Budget Committee found that the education clinic program in that State serves the needs of certain students who have dropped out and who are not served by public school alternative programs. The committee reports note that the clinic students are all dropouts. (On average, these students have been out of school for one year.) They tend to seek a GED rather than conventional high school diploma. On the other hand, students who gravitate toward public school alternative schools are not normally dropouts, and tend to seek high school diplomas. The per pupil cost of Washington's clinics is around $580 (most recent year) — about one-third the cost of public alternative schools. A longitudinal study of participants in one program — that run by Educational Clinics, Inc., the for-profit group — showed that 70.7 percent of the former dropouts were engaged in constructive activity (employed, in the military, in school, or a homemaker supported by a spouse). Most of these students were employed full-time. The remainder were seeking jobs, were homemakers supported by welfare, were in institutions or otherwise dependent. This compares quite favorably with dropouts generally, and with a small group who contacted the clinic but never enrolled. Faculty are often former public school teachers. They report much greater satisfaction working in the clinics — citing less bureaucracy and more opportunity to use their creativity and skills. The budget committee reports find the clinics effective. (Lines, 1985b.)

It is important also to look at the students who do not participate in a choice program. Arthur Powell and his colleagues analyzed comprehensive secondary schools and found that students gain from targeted programs within schools — be they for learning-disabled students, youngsters with behavior problems, the career-oriented or the elite college-bound. These programs often enjoy high teacher and student morale and achievement. But there are losers too — the average, "unspecial" kids who are neither good enough nor needy enough to be steered by parents or school staff toward one of these special programs, not because they lack choice but because they do not understand how to make the best use of their opinions. Neither the school nor their parents guide those choices toward educational work that is demanding and coherent. (Powell, 1985.) A student-selected educational smorgasbord is hardly a recommended approach to a balanced and productive program.

Race, Sex and Socioeconomic Balance. Alum Rock provided a valuable clue to the pressing question of whether families would separate themselves by race. Overall, among the 25 schools, racial ratios were fairly stable, and in 1975-76 the minority population in 15 of 25 schools was within ten percent of the district-wide total. In fact, from October 1970 to October 1976, the degree of racial imbalance (measured by the number of children who would have to be transferred to achieve the district-wide racial ratio in each school) declined from 13.3 percent to 11.0 percent. It should be noted, however, that the Black population in Alum Rock was geographically dispersed; hence these findings do not necessarily predict patterns where housing segregation is severe. But in Alum Rock, the only adverse impact on racial or ethnic balance seemed to be due to the desire among Hispanics for bilingual education. Some of the minischools that emphasized bilingual education were disproportionately attended by Hispanic youngsters.

Survey data are less useful on the issue of racial and socioeconomic balance, but they provide some additional information. Black students comprise 15.2 percent of the elementary or secondary school population in the U.S., but only 6.3 percent of private school elementary and 7.1 percent of private school secondary school enrollment. With 9 percent of the overall elementary and 7.8 percent of the secondary school population, Hispanics make up 7.5 percent and 6.3 percent of private elementary and secondary school enrollment respectively. (Bureau of the Census, 1984.) Thus, minority students are underrepresented in private schooling as a whole. Given the data previously presented from pools of parents showing minorities wanting more choice, this present underrepresentation seems due to the lower income levels of many minority families. We need much better data on the out-of-pocket costs for parents wishing to utilize private schools and how it relates to the discretionary income of poor families.

Despite the need to charge tuition and the lower income status of minorities, some private schools appear to be more racially balanced than their public counterparts. Others appear to be less so. (Crain, 1984.) A study of schools in the San Francisco Bay area, for example, found that all classes of private elementary schools (Catholic parochial or diocesan, Catholic private, other religious, and non-sectarian) enrolled a higher percentage of black students than did the public schools. The pattern for Hispanic students was different: Catholic schools had a high percent of Hispanic enrollment, while other religious and non-sectarian schools served a lower proportion of Hispanic students than did the public schools. The pattern at the secondary level, again, was quite different. Here, non-sectarian schools were found to serve disproportionately small percentages of both black and Hispanic students. Black enrollment in both Catholic private and other religious schools was somewhat below the public school level, but Catholic diocesan schools served a somewhat higher percentage of black students than the public school average. The proportion of Hispanic students was above the public school average in both types of Catholic schools, and below average elsewhere. (Ballantyne et al., 1984.)

The situation with respect to socioeconomic imbalance is more clear-cut. The San Francisco Bay area data indicate that, among private schools, only Catholic schools enroll substantial proportions of disadvantaged or AFDC students. These percentages drop off sharply at the secondary school level. To what extent such fundings are representative of the situation nationwide is not altogether clear. However, generally speaking it seems reasonably apparent that most private schooling, especially at the secondary level, is a predominantly middle-class phenomenon.

What about schools and programs of choice within the public sector? Here, too, there is suggestive evidence of stratification related to social class background. Though some magnet and alternative school programs make a conscious effort to attract students from diverse backgrounds, many are designed to serve special populations whose distinctive features are class-related. It is not surprising that programs designed to serve students who have done poorly in school or who are not college-bound tend to have student bodies that are disproportionately from disadvantaged homes or that programs for the gifted and talented draw mostly middle-class parents. (Raywid, 1984; Metz forthcoming.) Even magnet schools that are designed for broad appeal may come to serve a narrow social spectrum because their programs attract more or less able students. Metz observed, for example, that instructional approaches that do not foster visible competition among students appeal mostly to students who have difficulty in school, and have little appeal to middle-class parents who want their child to excel publicly.

The Impact of Expanded Choice—

On Public Schools:

One argument frequently cited when proposing expanded choice is that it will harm the public schools. One answer to this might be that, if the public school cannot compete successfully for students, perhaps it should not continue anyway. But by and large it looks as if they can compete successfully. Private school attendance in Vermont and Maine, where towns often pay tuition rather than operate a high school, is not large. About 10 percent of all K-12 children in Vermont and 14 percent of those in Maine attend private schools. In Maine, 4,471 children (including 400 special education students) attend private schools under the tuition program. About 16,000 children attend a nearby public school when their town lacks a school. (Lines, 1985b.) Following a series of court suits in the mid-1970's, New York City provided vouchers to parents of handicapped children who wanted to send their children to nonpublic schools. Rebell (1983) notes that the plan has had a range of impacts. Most interesting is that the availability of nonpublic placements spurred public schools to improve their placement mechanisms and programs.

International experience sheds some additional light on the impact of choice on this question. It appears that aid to private education will not produce a large shift from public to private schools, at least in the short run. Data from Australia and British Columbia show no major abandonment of the public schools. While there is little evidence that either tax credits or deductions produce any large shifts from public to private institutions, at least in the short run, direct institutional funding, particularly of capital costs, may have a stronger impact over time. (Williams et al, 1983.) It is important to realize that private schools, even when financed and regulated by the government, exist due to the choice of the parents. Different types and levels of assistance may produce different magnitudes of shifting from public to private schools, depending upon parental priorities, actual cost to parents, and the responsiveness of the publically financed schools to parental demands.

An important caveat about the experience of other countries is well summarized by Williams et al. (1983):

> "Almost all of the aid arrangements used by other countries (except for the tax credits in Australia) involve direct aid to institutions, not aid to individual families or children. As these types of arrangements have not been proposed in this country, caution must be exercised in transferring the results of this experience to pending proposals of vouchers and tuition tax credits."

Families in the Alum Rock experiment differed significantly with respect to the amounts and sources of information they had regarding the choices available. Better educated families relied primarily on printed material, but they also discussed programs with principals, teachers, and parent counselors. Less educated families relied primarily on personal contacts for information, particularly on parent counselors (who were hired for purposes of the experiment). Initially, the better educated families knew more details and had more accurate information regarding the choices available, but less well educated parents became knowledgeable within a year or two, provided that the rules did not change. As might be expected, non-English speaking parents had the most difficulty. (Bridge and Blackman, 1978.)

On the whole, parents used non-instructional criteria in choosing programs. School location was the primary criterion for most families, regardless of background. Even with free transportation, most families preferred to send their children to the neighborhood school. With respect to breadth of curriculum, however, the different ethnic groups "varied in their attitudes... Anglos and English-speaking Mexican-Americans favored a broad curriculum content, whereas Mexican-Americans who were interviewed in Spanish tended to favor a narrow curriculum content." The data regarding the relationship between family characteristics and choice of open or traditional classrooms suggest that "children in open classrooms came from families that were relatively more likely to be white-collar workers, non-Mexican-American, higher income, and higher occupational status." But all socio-economic groups were present to a greater or lesser extent in all programs. (Bridge and Blackman, 1978.)

We know from the *High School and Beyond* surveys that the parents of private-school students tend to hold higher aspirations for their children's education, to take a more active role in supporting schoolwork in the home, and to participate more in school affairs in a more supportive manner than do public school parents. (Chubb and Moe, 1985; Erickson, 1983.) But cause and effect are difficult to sort out. Public school parents include those who do express similar support of their children's education, typically the better educated and more affluent parents, but other public schools and of course, some private school parents lack this interest. Public-private differences may reflect the effects of choice or may simply mirror differences in the nature of parents in each sector.

Chubb and Moe suggest important institutional differences between public and private schools that may influence parent participation. Public schools' relations with parents are more formal than those in independent and religious schools. This difference reflects the different governance structure and legal accountability requirements in the two settings. Aggregate differences between the two sectors thus may reflect legal and structural variables in addition to factors of choice. Some of the most important future research may run along these lines.

The limited case study data indicate considerable variation among schools of choice in the degree to which parent involvement is expected and invited. Private schools also differ significantly in the degree to which they encourage parent participation. (Schneider and Slaughter, 1985.)

On Teachers.

In Alum Rock, teachers demonstrated a pattern of initial enthusiasm followed by some disenchantment. Teachers gained more of the things professionals habitually crave: autonomy, resources, the opportunity to be inventive. On the other hand, they reported that they worked extra hours, and were unhappy about this added work load. Previously, the curriculum had been set by central office staff in Alum Rock, but in the new design such decisions were primarily made by teachers. Teachers also had more freedom to arrange working conditions, more flexibility in grouping students, and opportunities to create smaller working groups for themselves. Under the Alum Rock design, rewards for success were somewhat perverse. Teachers in schools (or mini-schools) that recruited more students were not rewarded with higher salaries. Although their schools would receive more in tuition, the money was to be spent for more teachers or materials. As a result, competitive success by a school only produced more problems for its teachers -- more children, more planning, more meetings, more colleagues, more noise at recess, more disruptions at lunchtime. It is no surprise, then, that teachers' enthusiasm waned. (Rasmussen, 1981.)

Teachers apparently favor teaching situations in which both they and the students have chosen to be there. Not every school of choice for students also represents choice for teachers. Metz, for example, reports that the magnet schools she studied included many staff members assigned by virtue of having been in the building previously, rather than because they had any understanding of the magnet's special program or any desire to participate in it. Not surprisingly such teachers were not particularly satisfied, even in the school for the gifted and talented. (Metz, forthcoming.) But where both students and teachers have chosen the specially focused program of a school, high teacher morale and effort appear to result. This is reported for programs that serve problem students as well as for those serving the able, whether such special programs are part of a comprehensive high school or constitute an alternative school. (Raywid, 1984; Powell, 1985.)

On Administrators.

The principals in Alum Rock were initially encouraged to participate in the belief that their decision-making power would be increased. However, they found that to manage multiprogram schools or mini-schools effectively, much of their decision-making power would have to be delegated to the teachers. This led to some disenchantment with the experiment. One finding of the study was that different administrative styles were required or had clear advantages in different educational settings. Multiprogram schools were most likely to endure when led by a supportive principal with a facilitative management style. Alternative schools at separate sites could succeed when led by more authoritarian principals. (Bass, 1978.)

Few other researchers have directly addressed the demands and effects on administrators of schools of choice. According to national surveys (Chubb and Moe, 1985; Raywid, 1984), it appears that many schools of choice define the role of the principal in an unconventional way and link it more closely to teaching than does the typical public secondary school. This is especially true in very small schools, which do not need a full-time administrator. Whether this difference is a reflection of choice or of other institutional factors as Chubb and Moe (1985) suggest, remains a matter of speculation. Choice may make administrators more responsive to parent demands when it's a "buyer's market." Metz reports that principals felt considerable pressure to respond to the demands of parents who might otherwise leave a magnet school that was struggling to meet enrollment targets. In her study, it was the schools that offered distinctive approaches to instruction that had this problem, and these schools were most threatened by the loss of white parents, and thus, were especially sensitive to white parents' demands. The school for the gifted and talented, with a long waiting list, did not have a similar pressure to respond. (Metz, forthcoming.)

On Public School Programs.

Prior to the voucher experiment in Alum Rock, a single curriculum was imposed on all schools from the central office. The most obvious change due to the voucher demonstration project was greater program diversity. There were now Spanish-English bilingual programs, an arts and crafts mini-school, several "open classroom" mini-schools, and a number of innovative approaches to reading. Some of these programs retained the regular grade-level organization of elementary schools, but others were more flexible. This diversity fit well with parent preferences. Some parents had strong views on the relative importance of language and culture, on the balance among discipline, fundamentals, and individual discovery, or on the comparative value of algebra and art. Although the mini-schools seemed to very little in basic instructional programs — most teachers spent about the same proportion of their time on reading and math — they did seem to offer greater diversity in the other program areas, thus more nearly corresponding with varieties of educational opinions among parents. (Bridge and Blackman, 1978.)

The Research Agenda

Most of the studies we have cited — including those by the Rand Corporation, James, Raywid, Coleman, Crain, and Lines, to name just a few — were funded in whole or in part by NIE, NCES or other branches of the Department. The reorganized Office of Educational Research and Improvement has an Office of Research (OR) that will continue like its research predecessor, NIE, to receive unsolicited proposals and, so long as funds are available, to support sound research. Some of this will inevitably focus on education choice, given the extreme importance of the topic to American education. Second, OR will (as did NIE) solicit proposals where it identifies specific research needs. We are giving serious consideration to requesting proposals on education choice. This, too, depends on sufficient funding, and we do not yet know what our appropriations will be. The process for identifying research priorities is ongoing, and a final conclusion is not possible at this time. However, the following represent questions on choice which, if answered, could help to shape future policies:

- What would be the effects of a voucher program that permitted and obtained participation of private schools along with public schools (as Alum Rock did not)?
- What are the effects on student attainment and similar measures of education excellence on students who have no choice, because of economic condition or lack of available alternatives in the public or private sector?

- What is the impact on the child when parents make no choice, or, in the case of older children, the child makes no choice, when choice is in fact available? Why is no choice made? Are there policies and practices that can assist the family that remains passive to take a more active role in determining the child's education needs?

- What are the different effects of different choice policies? Which policies are most effective at achieving better student attainment, greater equity, and greater congruence with the diversity among schools, or greater school sovereignty?

- How would a comprehensive voucher plan affect the racial balance in the schools of communities where the races live in separate neighborhoods? Alum Rock showed stable or improved balance where residential patterns were not highly segregated.

- Will long-range availability of choice in an entire community create a problem, as some observers suggest, by fragmenting society along religious and/or philosophical grounds? Or will it achieve, as others suggests, a more smoothly functioning pluralism?

- How will the new programs being currently adopted turn out? The Office of Research should monitor and encourage evaluations of the many natural experiments that are now underway. The NIE did this in the past, when, for example, it sponsored the study of the Minnesota tax deduction policy. As more state and local governments adopt innovative choice policies, it is extremely important that OR be able to fund sound evaluations of the implementation of these policies. In this way, states become laboratories for social innovation, and we take full advantage of our federal system for the benefit of all.

OERI's Center for Statistics (CS) is improving the database for public and private elementary and secondary education. This will include a modification of the timing of public and private school surveys to allow both to go forward in the same school year. There will be an increase in the number of identical items in both surveys, and for the first time, a survey of private school teachers similar to the one for public school teachers. Such changes will improve our knowledge of private school staff and programs and will permit better comparisons of public and private schools.

In addition, the Department's Office of Planning, Budget, and Evaluation (OPBE) conducts and supports a number of policy and planning studies concerning education choice. One was cited above — a staff study with contractor support by Jay Noell and David Myers (1983). OPBE has also sponsored an evaluation of four school districts with open enrollment or school-based management: Minneapolis; New York City District No. 4; Cherry

Creek, Colorado; and Irvine, California. Presently this office has a contract with the Sequoia Institute to prepare a set of papers on various choice options and issues. It is also providing support for the National Governors Association Task Force on Choice, which plans several papers on education choice as part of a conference planned for December. Finally, this year it plans to assess characteristics of some local school districts offering choice and parents who have exercised choice.

Perhaps our most focused effort will be through the Secretary's Discretionary Fund, a grant program authorized under Section 583 of the Education Consolidation and Improvement Act of 1981 (ECIA). The purpose of the Program is to support projects that meet the special educational needs of educationally deprived children, or to improve elementary and secondary education, consistent with the purposes of the ECIA. Eligible applicants are state educational agencies (SEA's), local educational agencies (LEA's), institutions of higher education and other public and private agencies, organizations, and institutions.

The Secretary exercises discretion in the management of this program by periodically establishing priorities that are published in the Federal Register. Since the establishment of this program, two announcements have been made that contained priorities bearing on the issue of educational choice. In 1983, Secretary Bell gave priority to support of initiatives related to education voucher programs. Following this announcement, the Department received ten proposals to examine the topic, one of which was funded. This award was made to Community School District Five, in New York City. The chief features of this project are:

- An open zone enrollment program for all elementary and intermediate schools in the district, operating much like a public sector voucher plan with money paid directly to individual schools.
- Competition among schools to attract students, with "marketing" the responsibility of the school principal.
- Development of a Plan for Excellence at each school site.
- Establishment of School Site Management Councils for each school comprised of parents, students, principals, teachers, and other community representatives.
- Participation of the private sector through volunteer services in the areas of marketing, public relations, and management advice and training to principals and other participants.

This stage of the project was scheduled for completion in August of 1985. The final report has not yet been submitted. However, the interim report for this project indicates that training for key school personnel, parents, and community residents has been completed and that the School Plans for Excellence have been submitted to the Community School District Superintendent.

On June 11, 1985, Secretary Bennett announced a grant competition under the Secretary's Discretionary Fund for projects to address "The Three C's" -- Content, Character and Choice. Under this competition, applicants could propose activities in the area of evaluation, research, demon- stration, planning, and dissemination. The competition closed on August 5. Awards have not yet been made (all are in abeyance because a federal court in Chicago has impounded the funds under the Program). However, a review of the applications received with respect to choice may prove instructive. A total of 62 applications addressing choice either as the central issue, or as a component in a set of issues was received. Twenty-four of these applications were determined by peer reviewers to be of sufficient merit to warrant consideration for funding. Our analysis is limited to these twenty-four.

Table 9 displays the distribution of applications by source and primary activity. (See Table 9.) While one must be careful about drawing conclusions from this sample, it is noteworthy that the majority (75 %) of these applications come from postsecondary institutions and other public and private agencies that are not responsible for governance of elementary and secondary education. Through case studies of selected public and nonpublic schools, students, and/or parents, some applicants propose to evaluate the effects of current laws, court decisions, policies, or programs in promoting or impeding expanded choice. Others seek to expand currently operating choice programs or to initiate new activities. The current programs proposed for study, range from services to improve the literacy of young adults to state voucher programs. Proposals for the initiation of new activities include plans to increase home instruction opportunities, develop the ability of parents to make informed choices for their children, and help schools adopt programs that will provide choices to parents. Still others will conduct basic research on questions related to parental involvement in effecting choice, the legal and administrative issues associated with choice (particularly with respect to desegregation plans and state tax credit and voucher plans), and the effectiveness of various ways to expand parental choice. I have described these applications in general terms, since the selection process is still underway.

Funding of these applications will open up a "testing ground" of current practices. We plan to use this testing ground as a source for new ideas for expanding choice and for identifying research questions to address in the future, which could be supported through competitions under the Secretary's Discretionary Program, other funding sources, or collaborative research activities conducted by the Educational Research and Development Centers and the Regional Laboratories. Some of these proposed activities will help identify programs and policies for choice that could be adopted by communities throughout the nation.

The federal government has a legitimate role in supporting careful study of the innovative policies of state and local governments. It has a role in underwriting rigorous research into the effects of educational choice. It also has a role in encouraging more research from other organizations -- such as the National Governors Association, the Council of Chief State School Officers, the American Federation of Teachers, the Parent-Teachers Association, local and state educational agencies, universities, private foundations and myriad other parties that have expressed an interest in choice. The federal government cannot and should not monopolize research on this important issue.

Summary

We do not start from ground zero in coming to grips with the complexities of educational choice. Some things are known at a high level of assurance and more things at a reasonable level of probability as indicated in this tour of the horizon, but there is no question about our needing to know much more than we do at present. That is the role of research, and one we intend to pursue with imagination and rigor, subject to the availability of funds.

But what we already know is important. We know, for example, that low income people and minority group members would like more choice. We know that those who can afford it routinely exercise choice by selecting a residence in their preferred public school attendance area, or (less frequently) by choosing private schools. We also know a few important things about the effects of expanded choice. For example, we know that it may be beneficial to student achievement — particularly for the poor or minority student. We know that well designed choice programs may assist in achieving desegregation goals, and may improve the vitality of public education. The research uniformly fails to support the critics' contentions that more choice would harm student achievement, desegregation goals or public education.

There are limits, of course, on what scholars can do to evaluate policy. We can study only that which policymakers are willing to try or are willing to have evaluated. This is true even for those trials that are intended to be carefully designed experiments. The experience with the Alum Rock study, for example, suggests that political exigencies can and do constrain experiments.

There are, nonetheless, empirical questions which research can address. Research can and should tell us what is going on. Research can identify which policy choices better achieve which particular goals. However, we should all realize that research alone cannot tell us what to do. Questions of fact go hand-in-hand with other questions: normative questions, value judgments, questions of what constitutes the public good. Any policy involves gains and losses, serves some needs better than others. Every policy that we adopt necessarily represents some balance among competing goals and values. Researchers can describe only the actual effects of the actions policy makers take, and only if and when they take them, although through estimates, models, and projections it is sometimes possible to predict some of the consequences of new policy.

Ultimately, the decision to extend educational choice to more American families cannot be based entirely on research nor should it be. Such a decision must rely heavily on value judgments and the policy maker's sense of the public interest. My own view is that education choice should be made available to all Americans. The right of parents in America to have a say in their children's schooling is entirely in keeping with American culture and values. Moreover, the balance of public opinion favors education choice. This should count for something in a democracy.

Every democracy has a long term stake in the quality of policy choices made. The better informed the public is, the wiser the choices that are likely to be made. Research can help develop a better informed public. Sometimes it can even help policy makers add to what they already know.

NOTES

1. See Pierce v. Society of Sisters, 268 U.S., 510 (1925); Meyer V. Nebraska, 262 U.S. 390 (1923) and similar decisions by the United States Supreme Court restricting state power to intrude upon private education choices.

2. Most of the data reported here were published in George Gallup, "The Seventeenth Annual Gallup Poll of the Public's Attitudes Towards The Public Schools," Phi Delta Kappan, Sept. 1985, pp. 35-40. Some of the data were made available only in an expanded version of the report entitled, "Public Attitudes Toward the Public Schools," May 1985, which may be obtained from the Gallup Poll, in care of Phi Delta Kappa, Bloomington, Indiana.

3. Since the establishment of the Department of Education in 1980, the Department's Office of Educational Research and Improvement (OERI) has served as the organizational unit housing both the National Institute of Education (NIE) and the National Center for Education Statistics (NCES) as well as the Center for Libraries and Education Improvement (CLEI). On October 1, 1985, a reorganization of OERI was approved that created five major subsidiary units in place of the former three just cited. Under this reorganization, virtually all of the research functions formerly carried out by NIE are vested in a new Office of Research. The National Center for Education Statistics was redesignated the Center for Statistics.

Table 1

Public Support For Education Vouchers: The 1985 Gallup Poll

	Favor (%)	Oppose (%)	No Opinion (%)
Parents with children in school	51	40	9
Public school parents	49	41	10
Private school parents	63	32	5
No children in school	42	40	18
Blacks (Non-whites)	59	26	15
Whites	43	42	15
Central City	53	32	15
Community size			
1 million plus	54	30	16
500,000-999,999	40	51	9
50,000-499,999	38	43	19
2,500-49,999	41	50	9
under 2,500	40	44	16
18-29 years old	55	31	14
30-49 years old	46	42	12
50 and older	36	45	19
College educated	43	46	11
High School	47	36	17
Grade school	43	34	23
Protestant	42	43	15
Catholic	51	33	16
East	53	31	16
Midwest	35	51	14
South	46	40	14
West	44	39	17
Rating of local schools			
A or B	42	46	12
C, D, or F	52	36	12
Total	45	40	15

"In some nations, the government allots a certain amount of money for each child for his education. The parents can then send the child to any public, parochial, or private school they choose. This is called the 'voucher system'. Would you like to see such an idea adopted in this country?"

SOURCE: Unpublished data from the 1985 Gallup Poll on education sponsored by Phi Delta Kappa.

TABLE 2

Public School Parents Who Are Very Likely to Send Children to Private Schools with $250 Tax Credit

	Percentage
Total	9.2 (N = 1687)
Race	
White	6.3
Black	18.2
Hispanic	19.8
Other	9.0
Family Income	
Under $7,500	12.9
$7,500 - 14,999	17.9
$15,000 - 24,999	12.9
$25,000 - 49,999	2.9
$50,000 and over	2.8
Place of Residence	
Large City	18.1
Suburb	4.7
Medium City	12.2
Small City or Town	6.9
Rural	1.3

"Suppose the federal government allowed you to reduce the income taxes you owed by $250 for every child enrolled in a non-public elementary or high school. How likely would you be to transfer this child to a school other than the one (he/she) will attend next fall if this tuition tax credit were available? Would you say you would be:

"very likely";
"somewhat likely";
"somewhat unlikely"; or
"very unlikely".

SOURCE: Adapted from: Williams, 1983

TABLE 3

Private and Public Elementary/Secondary Schools and Enrollments: Fall 1980 and 1983

	Total	Public	Private 1/	Percent Private
Schools				
1980 2/	110,400	85,900	24,500	22.2
1983	111,900	84,200	27,700	24.8
Percent Change (1980-83)	1.4	-2.0	13.1	
Enrollment 3/ (in millions)				
1980 2/	46.3	41.0	5.3	11.5
1983	45.0	39.3	5.7	12.7
Percent Change (1980-83)	-2.8	-4.0	7.2	

NOTE: Percentages derived from unrounded numbers.

1/ For the purposes of the NCES survey, an eligible school met three criteria: (1) it included a first or higher grade; (2) it was housed in a facility other than a private home; and (3) it provided 4 or more hours of education per day for a minimum of 160 days per year. Children attending day care centers, nursery schools, and institutions without a 1st grade are not included.

2/ Estimated.

3/ Includes pre-kindergarten through grade 12.

SOURCE: National Center for Education Statistics, 1984b.

TABLE 4

Private Elementary/Secondary Schools and Enrollment, by Affiliation: Fall 1980 and 1983

	Number of Schools	Enrollment 1/ (In thousands)
Total		
1980 (est.)	24,500	5,300
1983	27,700	5,700
Percent Change, 1980-83	13%	7%
Catholic		
1980 (est.)	9,900	3,400
1983	9,700	3,200
Percent Change, 1980-83	-2%	-6%
Other Religiously Affiliated		
1980 (est.)	8,300	1,100
1983	10,000	1,400
Percent Change, 1980-83	20%	27%
Non-Affiliated		
1980	6,200	900
1983	8,000	1,200
Percent Change, 1980-83	29%	33%

NOTE: Because of rounding details may not add to totals.

1/ Includes pre-kindergarten through grade 12.

SOURCE: National Center for Education Statistics, 1984b.

TABLE 5

Private Elementary/Secondary School Enrollment as a Percent of Total Public and Private School Enrollment 1/, by Income and Race/Ethnicity: October 1982

Family Income	TOTAL			WHITE			BLACK			HISPANIC		
	Total	Church Related	Not Church Related	Total	Church Related	Not Church Related	Total	Church Related	Not Church Related	Total	Church Related	Not Church Related
All	10.0	8.4	1.4	11.2	9.3	1.5	4.4	3.5	0.5	8.7	7.6	0.7
Less Than $7,500	3.3	3.0	0.2	4.4	3.9	0.3	1.7	1.5	0.1	2.9	2.6	0.3
$7,500 to $14,999	6.1	5.5	0.4	7.2	6.6	0.5	3.0	2.3	0.2	5.3	4.8	0.5
$15,000 to $24,999	10.0	8.4	1.2	10.7	9.0	1.2	5.9	5.0	0.7	12.2	10.7	0.5
$25,000 to $34,999	13.5	11.6	1.6	13.8	11.9	1.6	9.9	7.3	1.9	15.5	13.0	2.0
$35,000 to $49,999	13.2	11.0	1.7	13.1	10.9	1.6	12.2	8.4	3.2	27.7	25.4	2.3
$50,000 to $74,999	16.6	13.0	3.2	16.3	12.6	3.2	22.3	21.8	NA	NA	NA	NA
Greater than $75,000	31.0	19.9	11.1	30.2	19.0	11.2	NA	NA	NA	NA	NA	NA
Not Reported	13.0	9.2	2.5	13.4	9.5	3.0	10.1	6.8	NA	13.0	10.1	NA

1/ Includes grades 1 through 12.

SOURCE: U. S. Bureau of the Census, Current Population Survey, October 1982.

TABLE 6

Catholic Elementary/Secondary School Enrollment, by Race/Ethnicity: 1970-71 and 1983-84

Level and Race	1970-71		1983-84	
	Number	Percent	Number	Percent
Total	4,363,600	100.0	2,968,000	100.0
Black Americans	209,500	4.8	256,000	8.6
Hispanic Americans	216,500	5.0	263,300	8.9
Asian Americans	23,500	0.5	70,000	2.4
American Indians	20,400	0.5	9,700	0.3
All Others	3,893,700	89.2	2,368,900	79.8
Elementary	3,355,500	100.0	2,179,800	100.0
Black Americans	172,000	5.1	200,400	9.2
Hispanic Americans	177,900	5.3	205,300	9.4
Asian Americans	18,300	0.5	54,300	2.5
American Indians	18,000	0.5	7,100	0.3
All Others	2,969,300	88.6	1,712,700	78.6
Secondary	1,008,100	100.0	788,400	100.0
Black Americans	37,500	3.7	55,900	7.1
Hispanic Americans	38,600	3.8	58,000	7.4
Asian Americans	5,200	0.5	15,700	2.0
American Indians	2,400	0.2	2,600	0.3
All Others	924,400	91.8	656,200	83.2

SOURCE: National Catholic Educational Association, United States Catholic Elementary and Secondary Schools, 1983-84.

TABLE 7

Private Elementary/Secondary School Enrollment 1/ and Private Enrollment Shares, by Region and SMSA Status: 1982

Region and SMSA Status	Private School Enrollment 1/ (000)	Private Enrollment Share (Percent)	Increase (Decrease) of Private Percentage Share From 1979
U. S. Total	4,149	10.0	0.2
Central City	1,502	13.7	(2.3)
Suburb	1,827	11.0	1.0
Nonmetro (Not in SMSA)	819	5.9	0.9
North East	1,171	13.3	0.8
Central City	461	17.6	(2.7)
Suburb	515	12.5	2.2
Nonmetro	195	9.6	(0.2)
North Central	1,260	11.7	0.2
Central City	471	18.1	0.8
Suburb	566	12.7	0.2
Nonmetro	223	6.0	0.1
South	1,024	7.4	(0.4)
Central City	299	8.8	(3.6)
Suburb	420	10.3	0.9
Nonmetro	305	4.8	0.6
West	693	8.4	0.5
Central City	271	11.5	(2.5)
Suburb	326	8.3	1.2
Nonmetro	96	4.9	2.1

1/ Includes Grades 1-12

SOURCE: Bureau of the Census, Current Population Survey, October, 1982.

TABLE 8

Percentage Distribution of Sophomore and Senior High School Students from Various Religious Backgrounds in Public and Private Schools: Spring 1980

Religious Background	U.S. Total	Public	Private		
			Total	Catholic	Other Private
Percent.....	100.0	100.0	100.0	100.0	100.0
Baptist.........	21.0	22.5	7.4	1.9	18.0
Methodist.......	8.6	9.3	3.0	1.0	6.8
Lutheran........	6.2	6.7	2.0	1.0	4.0
Presbyterian...	4.5	4.7	2.8	1.1	6.1
Episcopalian...	2.1	2.0	3.1	0.7	7.8
Other Protestant	4.1	4.2	3.1	0.7	7.7
Catholic.......	34.2	30.7	65.8	90.9	17.4
Other Christians	6.5	6.8	3.6	0.9	8.9
Jewish........	2.1	1.9	4.2	0.3	11.9
Other religion	4.3	4.5	1.8	0.4	4.5
None..........	6.4	6.8	3.1	1.2	6.9

NOTE: Percentages are based on the weighted numbers of students. Details may not add to totals because of rounding.

SOURCE: Coleman, James, et al., Public and Private Schools, U. S. Department of Education, National Center for Education Statistics, 1981.

Table 9

Applications* to the Secretary's Discretionary Fund Addressing Choice, by Source and Activity: FY 1985

Source	Activity					
	Total	Evaluation	Demonstration	Planning	Research	Dissemination
Total	24	3	6	1	9	5
Local Education Agencies	4		2	1		1
State Education Agencies	2	1	1			
Institutions of Higher Education	4	1			2	1
Non-Profit Organizations	14	1	3		7	3

*Applications of sufficient merit to warrant consideration for funding. Not all could be funded.

SOURCE: U.S. Department of Education, Office of Educational Research and Improvement.

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Senator **Durenberger**. Welcome. Our next witness will be Dr. Joseph Nathan, who is currently a research fellow at the Public School Incentives, St. Paul, MN. Dr. Nathan is a former public school assistant principal and the the author of a provocative book entitled "Free to Teach: Achieving Equity and Excellence in Schools." He is also the author of a new book I got today about using computers in education.

Welcome, Joe. I am very pleased that you could be with us here today.

TESTIMONY OF JOSEPH NATHAN, RESEARCH FELLOW, PUBLIC SCHOOL INCENTIVES, ST. PAUL, MN

Mr. **Nathan**. Senator Durenberger, thank you very much for the invitation. I request permission to place the material in the record and make a statement.

Senator **Durenberger**. Your statement will be make a part of the record.

Mr. **Nathan**. Thank you. I want to talk about four basic things, Senator, all of which are part of the testimony, and I understand that we ran out of copies, so there are additional copies of testimony for people who might be interested.

I speak, as you know, as a parent whose children attend the St. Paul public schools, whose wife is a public schoolteacher, a person who attended the public schools in Wichita, KS, and a person whose career has been in the public school systems in Wichita, KS and Minneapolis and St. Paul.

I want to talk to talk about the issue of equity. In the last 50 years, we have argued that families ought to have the opportuntiy to make a choice in their children's education. That was the issue, I recall quite clearly, 15 years ago, some of us worked in various school districts to try to provide choices among public schools. Some people said that we were trying to destroy America.

As a Senator, you know that many people come before groups such as this and say this plan or that plan will solve all problems of the world or will destroy America. There was an interesting progression in the land in voting, for example, when we started out over 200 years ago. We had many people who did not have the oportunity to vote, and gradually, we provided an opportunity for all white males. That was a radical idea in its time. You will recall that Grover Cleveland in 1905 said it was ridiculous and radical idea to let women vote. He said, and this is a direct quote, "The relative positions to be assumed by man and woman in the working out of our civilization were assigned long ago by a higher intelligence than ours. Sensible and responsible women do not want to vote."

There have been, on the other hand, people who have suggested that, for example, providing women with the opportunity to vote would end war in our time. Unfortunately, in my view, that didn't happen. It seems to me it is very important to be clear and specific about what different kinds of plans will and will not do. I did not come here today as a proponent of any particular plan or as a spokesperson for any particular organization. I want to talk briefly about four areas.

First, different kinds of plans. I think it is important to be clear that there are three major variables in considering educational choice. First is: What students are going to be involved? There have been a number of different plans that have stated students with certain age levels or ability levels or certain educational experiences might do well with different kinds of opportunities. The written testimony described different kings of plans that have been targeted to different kinds of students.

Minnesota, as you know, Senator, has recently decided to provide for opportunities within public schools for students of certain ages, that is to say, principally, grades 9 through 12. The first major consideration is what students will be involved.

The second one is the variable of what schools are to be involved. As you know, 15 years ago, many of us worked very hard to provide for students to be able to choose from various public schools. A number of States in the last 15 years have passed legislation to provide choice among public schools. Minnesota has provided for young people in the last year to select among public school programs that they offer or the postsecondary institutions through the State.

I note that this week, "Education Week," has a very strong article criticizing this, Unfortunately, there are relatively few students who are asked what they think. Some of us want to do surveys of what students and parents think of that. I think that may be a much different article, and I hope that educational people see fit to include information in the future about what parents and what students think about this as well as professional educators, at least some group of professionals educators think about it.

Fortunately, there are some professional educators in the land who like the idea of more choices and in certain circumstances, and you will be hearing from them today. It is also worth noting that Governor Perpich's plan to expand choice last year was endorsed by groups such as the League of Women Voters, the Minnesota PTA, and a group of elementary and secondary principals.

I think it is important to include that not all plans are bad ideas and not all plans will result in the destruction of the world or at least the society, which some people have alleged.

Finally, I think in terms of variables, I think it is important to consider the scope. Some plans call for more choice in school districts; some call for more choice across districts; some call for choice across the State; and some call for choice across, in fact, both district and, in fact, State lines.

Dr. Finn earlier referred to a plan that has been in operation for months since the 1890's, where towns, under Vermont legislation, are permitted to decide whether they want to have their own secondary schools, cooperate with other secondary schools to create a program or to do much of like what was done with the GI bill for families, which was to give parents *x* number of dollars and say, "You may select from among public or nonsectarian academies."

Today, approximately one-third of Vermont's 246 towns choose option 3. Today, approximately one-third of Vermont's towns provide a GI bill for families at the secondary school level.

I had the opportunity to spend some time in Vermont, Senator, about 10 days, and I talked with people all over the State. I talked with advocates for handicapped people, advocates for low-income families and heard many stories about how providing for choices was a good idea; how one district might not be concerned about handicapped students, but other districts were, and all the legislation, all the mandates couldn't increase the interest in a particular school district.

But providing the opportunities for parents to go to other districts did help. I was told a story about how low-income students and how large families had had wonderful experiences with expansion of choice. Some low-income families have large families, and sometimes the first person who goes to school establishes a reputation. It may be a positive reputation or a negative reputation. A number of people who I talked to daily talked about how the opportunity to select from a different school meant that a young person had the opportunity to start with a clean bill of health.

So, I think, it is important first to think about different kinds of plans involving certain students, certain schools in scope and not try to lump all proposals together and say they are either tremendous or awful.

Second, I want to talk for a moment about the kinds of research that is available. As Dr. Finn said, there is not enough research available, but there still have been, over the last 15 years, in part with Federal support, studies about the kinds of effects, about the kinds of choices that have been made available. In the research that is cited in the written testimony, there is some very significant research showing that when choices are provided among public schools, teachers, parents, students, and the broader community benefit.

First, happens to teachers? Teachers report when they are provided with opportunties to help create programs and then to work a program which they have helped to create which are distinctive, their morale goes up dramatically. Dr. Bennett from St. Paul, the superintendent, will be here to talk to you about opportunities the St. Paul schools have provided, and Dr. Randall will testify they have provided opportunities for teachers there to help create different types of programs.

Some recent research in Milwaukee public schools, cited in my written testimony, says that the teacher morale or those schools is much higher than in other schools. Teachers were allowed to develop distinctive programs from which parents were allowed to choose. I think Dr. Bennett should be credited with that. I think it also is a credit to teachers who took the professional responsibility when they had the opportunity to create certain types of programs.

So research shows that when teachers have the opportunity to help create programs which are not designed to appeal to all students and all families, the teacher morale goes up dramatically.

Second, parents, according to a number of surveys, when given the opportunities to select among various schools, report more involvement, more satisfaction, and they report that they are happier with the schools. That is not terribly surprising.

Finally, research shows that when students have the opportunity to select, with their families, from among different kinds of schools, the student morale improves, the student achievement improves, the student attendance improves, the student behavior improves.

There are many, many benefits to students from having the opportunity, with their parents, to select among the various kinds of programs. It is ironic to me, frankly, that this issue is sometimes painted as an equity issue and that choice is sometimes described as the opposite of equity.

My wife, who is addition to being a public schoolteacher and mother of our twins, age 6 who attend, as I mentioned, the St. Paul public schools, in her spare time grows flowers, and she points out to me that we have different kinds, she grows different kinds of flowers and that all of the flowers need air, water, heat, and light, but they don't thrive if they are all given the same dose. I think the same holds true with young people. They need different kinds of programs so everyone doesn't get the same dose, everyone doesn't have the same kind of structure to make sure that everyone will succeed.

I want to briefly report to you that there are some interesting research also on choice involving public, private, and independent schools. That is cited in my testimony, but very briefly, in addition to the Vermont experience, there are educational clinics, which you will hear more about. The Washington State Budget Legislature distribution did a survey of that and found that it worked very, very well.

It is absurd to assert and I will not, that privatization is the answer to all things, as I believe you have correctly stated. Privatization sometimes causes problems, but there is some good it can do. I appreciate the opportunity to be here. I thank you for your interest in the subject.

Senator **Durenberger**. I remember my experience with choice in health care when we had the first hearing, 5 years ago, on the concept of choice. People were all zeroing in on competition, rather than on choice. They said, "We have a lot of competition," or, "To introduce competition into the system, you put price up front and everything else goes to pot."

But one of the interesting changes that I observe now is the way we have changed our definitions. The one in health care that strikes me substantially, of course, is the current versus the past definition of hospital. If we said 5 years ago, "What is a hospital?" People thought only of a big, red brick building where doctors do everything from emergency care to very complicated operations.

Today, the first question asked of a patient is, "What is wrong with you," so he can be referred to the appropriate service. There are very few medical services that hospitals are not able to provide, so health centers and much better resources are located at hospitals, usually run by hospital staff. But the medical professionals running those health centers at hospitals have no particular incentive to improve or vary the way they deliver services, or bring services closer to people, or offer treatment alternatives. Now they do.

If I were to ask you, "What is a school," what would you say today? You gave me three variables; students, school, and scope. What is a school?

Mr. **Nathan**. It is pretty easy to drive through the land and identify in any city, small town, or locality, what the school building is. They look pretty much the same. That is not to say that there aren't people in the schools, both public and private, who are not working hard. There are many caring people in those schools, but, I think, there are also many frustrated people in those schools. Some of the studies that have come out have identified that, as John Goodlad, dean of UCLA School of Education said, "The cards are stacked against innovation." What many of us believe is that we ought to have more choices of some kinds and we ought to have standards.

The lessons of the GI bill are clear: We should not have, in my view, unregulated choice or opportunity. There need to be some standards, but there also need to be some opportunities for professional educators to plan. Goodlad talked about the cards being stacked against innovation.

It seems to me that providing more assistance to people who care about kids makes a great deal of sense.

I should also mention that these are not only my recommendations. The statement is sometime made that: Well, if the choice is such a good idea, why isn't anybody recommending it? I list a number of groups in the testimony who say: Let's start to think about these things in different ways, let's provide more choices. And this goes to the heart of your question, I believe. You ask what is a school like. Some people are suggesting that we have different definitions of schools.

The National Academy of Sciences recommended a definition of different opportunities, different structures. So did the recent CED report. I think we can give more opportunities for both professionals and for kids.

Senator **Durenberger**. Thank you very much. We appreciate your testimony.

[Dr. Nathan's prepared statement follows:]

TESTIMONY FOR THE U.S.SENATE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

October 22, 1985

By Dr. Joe Nathan St.Paul, Minnesota

Senator Durenberger, distinguished committee members, thank you for the opportunity to talk with you today. The subject of family choice among schools has been a source of considerable rhetoric from all sides. Today I want to share some experiences, with real teachers and students, during the last decade. My conclusions come from 13 years experience as a public school teacher and administrator, along with being father of 6-year-old twins who attend an urban, integrated public school, and husband of a public school teacher. I am not here representing any organization.

For more than 200 years Americans have debated expanding rights and opportunities. Our nation began, for example, with very limited voting rights, gradually expanding to include all men and women above a certain age, regardless of race. At each step there were some who insisted that expanding rights would be extremely destructive, or would solve many of our problems. Progress was made, but expanding rights did not eliminate all problems.

When experts promise disaster or panaceas, it's wise to be skeptical. That brings me to the issue we're discussing today: Should families have more opportunities to select from among various schools? Will providing an educational "G.I. bill for families" improve or weaken schools and our society? Before deciding how to answer these questions, thoughtful people will examine specific proposals, the changing American population, educational research and their own values. Many find they can support certain proposals while rejecting others. A careful examination of history shows that expanding choice among schools can produce greater parental satisfaction, increased student learning and higher morale among educators.

Some people believe that expanding choice and increasing standards are inconsistent. However, many authorities are coming to understand that providing different kinds of programs is one way to increase the likelihood that more students will be able to achieve higher standards. As Brown University Dean Ted Sizer points out "There is no one best curriculum for all schools. No two schools will or should have precisely the same characteristics: wise diversity is essential for quality."

My wife, a public school teacher and horticulturalist in her spare time, puts it like this:

"I grow different kinds of plants...violets, Christmas cactus, impatients and shamrocks. All of them require the same basic things: air, water, heat and nutrients. But giving all identical treatment means that most won't reach their full potential.

It's like that with children. All children have certain needs. But they learn in different ways. A program may work very well for some, and be extremely inappropriate for others.

It's not enough to offer various courses within a single school. Some students are intimidated by large schools, others fit in well. Some students can handle a great deal of freedom, while others need much more supervision. And incidentally, the same holds true for teachers. Some teachers will be effective (and comfortable) in schools with strict philosophies, while others prefer (and achieve better results) in schools with a more informal approach.

Some educators seek what David Tyack called "The One Best System." Recently scholars have discovered that there are certain characteristics of effective schools, including a strong principal, orderly environment, high expectations and agreement among faculty about goals and methods. Investigators in Milwaukee recently found that public schools created by professional educators explicitly to be distinctive, and to attract some but not all families, had "organizational relations and practices" much more like effective schools than schools designed to appeal to all families. Student achievement, along with faculty and parental satisfaction, was significantly higher in these schools.

Plans to expand choice among schools must answer three overall questions: which students are involved, what schools will be eligible, and what will be the scope of the plan. Some proposals provide families of students grades kindergarden-twelve with more choices. Other programs are geared to students of a certain age, or skill level, or kind of behavior. For example, many school districts have created programs geared for students who are disruptive. Minnesota recently passed two laws expanding educational choices for students in grades 9-12.

A second variable involves the schools from which parents may choose, with tax dollars supporting their decision. Many people believe that families should be allowed to choose from among various public schools. Massachusetts, South Dakota, Colorado and Wisconsin have adopted legislation expanding choices among public schools. For many years Vermont legislation has permitted towns to decide whether to have their own secondary schools, cooperate with other towns in establishing schools, or permit parents to use taxes to attend public or private non-sectarian programs. Today approximate 1/3 of Vermont's 246 towns use the third option. Others proposals permit use of tax funds to support attendance at public, parochial and independent schools which meet certain standards.

The third variable is scope . Some programs permit choice among schools in a particular section of a school district. Congress has provided extensive support to programs which increase parental choices within a school district. The South Dakota plan permits students living in very small school districts to move across district lines to attend larger nearby public secondary schools. Recently adopted Minnesota legislation permits our state's junior and seniors to attend certain public and independent post-secondary programs throughout the state, with tax funds supporting their attendance. So the scope of plans can be within a district, across district lines, throughout the state, or across other boundaries.

Research about the impact of expanding choice is encouraging. More than a decade ago some public school districts began to offer families choices, i.e. magnet, Montessori, fundamental and open schools. Critics said such choices would divide society. In fact, research conducted by Dr. Mary Anne Raywid of Hofstra University and Dr. Charles Glenn, Director of the Massachusetts Bureau of Equal Educational Opportunity found that when choices were provided among public schools,

- parents are more satisfied and involved in the schools
- students often showed significantly increased achievement and better attitudes toward teachers, learning and schools than their peers
- educator morale increased. Teachers reported feeling more like professionals.
- community support for public education increased

Glenn reviewed the impact of choice on equity:

> "Choice can do much to promote equity..by creating conditions which encourage schools to become more effective...by allowing schools to specialize and thus to meet the needs of some students very well rather than all students at a level of minimum adequacy, and by increasing the influence of parents over the education of their children in a way which is largely conflict-free. We have become excited about the potential of choice for public education."

In Minnesota, a number of groups endorsed Governor Perpich's proposal permitting students to move across district lines to attend public schools their families select. These supporters of the Perpich plan included the Minnesota League of Women Voters, Minnesota PTA, Elementary and Secondary School Principals and Directors of Community Action Programs. One supporter is Dr. Van Mueller, plaintiff in the U.S. Supreme Court case, Mueller v. Allen , which challenged Minnesota's tuition tax deduction program. Mueller likes the Governor's plan because:

> "The concept of increased parent choice and responsibility for their children's education is an idea whose time has come. It is a logical consequence of the successes of our public education system. Our population is better educated than ever before and parents with the help of professional educators can become sufficiently well-informed so that their decisions will be in the best interests of their children. Improving choice can help forge a new partnership between parents and educator and rebuild the confidence of the general

public in the public education system."

Tennessee Governor Lamar Alexander has endorsed the concept of providing choice among public schools. Governor Alexander explained that he could think of few things as coercive as assigned public schools, with the exception of land condemnation and the draft.

Minnesota parents recently told legislators how their Board insists children ride a school bus for almost an hour each way to attend the nearest public school _in their district_ rather than walk 10 minutes to the nearest public school which is just across district lines. And in one northern Minnesota area, Native American parents tried unsuccessfully to convince the local public school to change curriculum materials and instructional approaches to increase the success rate of their children. Met with hostile reactions, the Ojibways established their own school, supported with federal funds, which has significant improved their children's achievement. The local board changed certain practices. Some students have returned. Parents like options.

Some people oppose plans to expand choice among public schools because they view public schools as a place where American's races and economic groups are melted together. But affluent families can and often do choose to opt out of this pot by sending their children to so-called public schools in affluent, exclusive suburbs (or by sending them to private schools). In Boston, St. Louis, and Milwaukee, permitting students to cross district lines between cities and suburbs increased contacts among students of different races. One can believe strongly both in choice and an integrated society, as I do.

Some people fear that providing tax funds to support attendance at independent schools will split our society. They may be correct. But many parents from different racial and economic groups want good, distinctive programs for their children, and will voluntarily send their children some distance for these programs. Many urban independent schools are much more integrated, racially and socially, than suburban public schools.

Over the last decade, parents of some handicapped children in New York City were allowed to use public funds to choose among public, private and parochial programs established to serve their children. A recent review found that

- competition tended to improve all the programs,
- programs operated by private and parochial groups averaged fewer deficiencies than those operated by public schools, according to the New York Education Department
- parents liked the opportunity to choose
- independent programs attracted a racial and socio-economic cross section.

Empowering parents did not destroy public schools or splinter New York's society.

Since 1977 Washington state has provided support to "educational clinics" which work with teenagers who have not succeeded in the public schools. Some of these clinics are operated by private non-profit organizations such as Indian tribes and anti-poverty agencies. Others are operated by for-profit groups. Many of these clinics are staffed by former public school teachers who left districts, frustrated by restrictions placed on them. The Washington state Legislative Budget Committee recently examined the impact of these clinics and concluded, "On the basis of costs, outcomes and educational gains, the clinics make a good showing."

The Vermont program permitting choice among various schools already has been mentioned. Many Vermont parents and educators agree these opportunities have helped handicapped students and those from low income families.

What about standards? Vermont requires that private non-sectarian schools teach certain subjects, use buildings meeting health and safety requirements, keep records on student progress and periodically share that information with parents, conduct monthly fire drills and require immunizations before admission. Other important requirements should include stipulations that participating schools may not advocate unlawful behavior, discriminate in admissions on the basis of race or teach the inferiority of either sex or any race, charge more to low income families than the state or federal authorized payment or discipline students without following due process procedures. Many but not all private school administrators say those standards are acceptable.

Some people have asked why, if expanded choice is such a good idea, the concept has been ignored by recent reports. Actually, a number of reports by national and statewide groups have recommended various programs to provide more choices for families. Among them are the Committee for Economic Development's Investing in Our Children , the National Research Council's Education for Tomorrow's Jobs , Minnesota Business Partnership's Education for the 21st Century , Detroit Metropolitan Affairs Council's Dialogue for Change and the California Commission on School Governance and Management's Report and Recommendations . None of these groups suggested exactly the same program, but all recommended more choices and opportunities involving some students and schools.

Opponents of expanded educational choice sometimes threaten great calamity if various programs are adopted. The University of Chicago's chancellor wrote in December, 1944 that if the then under-consideration GI BIll were adopted, "Colleges and universities will find themselves converted into educational hobo jungles." Of course, that has not happened. The success of the G.I. Bill, along with state and federal post-secondary scholarship programs such as the Pell grants show that these fears may be more rhetoric than real.

Increasing choice will not solve all educational problems. Choice proponents support effective use of computers and more challenging courses. Expanding choice compliments other reform strategies.

Some plans permit greater choice for all, while others target students who have not succeeded or who come from low income families. Some limit choice to public schools, while others extend them to certain independent programs. Further discussion will help refine and improve these proposals.

Recommendations:

1. Recognize that expanding families' choice among schools can have a positive

impact.

2. Include enough time in any legislation for families and educators to plan.

3. Acknowledge that families get information from different sources. Any equitable program will involve various ways to get information to families, rather than assuming that everyone has the same access to information.

4. Make expanding opportunities for those students who have not succeeded, and for those families whose economic level limits their opportunities a priority.

5. Consider transporation arrangements. This does not necessarily mean that huge additional sums will have to appropriated for this purpose, but it will require some attention.

6. Recognize needs of students in small towns and rural areas. In some places expanded choice will benefit these youngsters. In other places it will have little real impact.

7. Learn from the G.I. Bill and Pell grants. Some people are more interested in receiving public funds than providing outstanding programs. Some regulations and standards are critical. The experience of Vermont and Minnesota can be instructive in thinking about desirable standards.

8. Provide resources to help professional educators plan programs from which families can choose. The most effective educational programs generally are those developed by those who will work in them, rather than by someone sitting in a central office, state department or judge's chambers.

9. Financial arrangements should be made so that parents truly do have more choices. A $100-200 payment is not sufficient to provide tuition at public or independent schools outside one's neighborhood.

10. Initiatives to expand parental choice should include evaluation measures, and reports to you about possible modifications.

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Senator **Durenberger**. Bob, I think you are next on panel 1. What I had better do is dash over and cast my vote. I won't be as long this time because I got in two votes the last time. As I understand it, because of the time pressures and because of where people come from, we are going to call Bob Woodson, who has testified before this committee on other subjects. He is the president of the National Center for Neighborhood Enterprise. We will also hear from Dr. Paul Berman, vice president of BW Associates in Berkeley, and executive director for policy alternatives. We are going to call them, and then we have asked Dr. John Chubb and Dr. Terry Moe, who apparently have more local residences, if they would be willing to come back and participate with us in a future hearing.

So, the minute I get back, we will hear from Bob Woodson and Mr. Berman. The hearing is in recess.

[Short recess.]

Senator **Durenberger**. Bob, we welcome you to the hearing, and your full testimony will be made a part of the record. You may proceed to summarize that statement.

TESTIMONY OF ROBERT L. WOODSON, PRESIDENT, NATIONAL CENTER FOR NEIGHBORHOOD ENTERPRISE, WASHINGTON, DC; AND DR. PAUL BERMAN, PARTNER, BW ASSOCIATES, BERKELEY, CA

Mr. **Woodson**. Thank you, Senator. It is a pleasure to be here to talk to you about something that is very important to me and to the people I represent.

The National Center for Neighborhood Enterprise was founded 5 years ago and we think we have developed an impressive record of representing the views and opinions of low-income groups and providing assistance to them. One of our areas of concentration is education. But my remarks also reflect my personal experience. I grew up in Philadelphia and had the unpleasant experience of watching my ninth grade friend stabbed to death on the steps of my junior high school. Some parents had the option of moving, my family and others had no such option. Many of my nieces and nephews continue to live in those same communities, where the lack of choice in education is not an esoteric issue or an ideological sideshow. It is a real life and death issue. Some of them dropped out of school because the school boundaries were changed, which meant they were assigned to a school dominated by a hostile youth gang. So they chose to drop out of school for their own safety.

Education issues are important to many of the people I represent. In fact, several surveys show that 59 percent of black parents supported educational choice.

In response to their lack of educational choice, low-income people are organizing their own independent schools throughout the country. None has identified over 350 neighborhood independent schools. Many schools were started by teachers and low-income parents who came together because they want quality education for their children. The schools vary in size from 25 students to 800, and tuitions range from $800 to $1,600 a year. Many of the children are achieving 2 years above their public school counterpart. The schools and parents are demonstrating that they are willing to make sacrifices to give the students the kind of quality education necessary for them to succeed.

One parent, Mrs. Jones, who was honored at NCNE's annual meeting, has four children in a black Christian school in Philadelphia. She works 12 hours a day in a laundromat and her husband drove a trash truck—yet they spent $5,000 of their income to support four children in school. After the father's death, the family combined Social Security checks and other family income to keep the children enrolled in private school.

Parents like Mrs. Jones would find that an education voucher would give her and others like her the kind of choice that would enable their children to attend some of the existing independent neighborhood schools in low-income communities.

It seems to me that to expect that public schools will provide quality compensatory education under chapter 1 is ludricrous. They have demonstrated that they cannot. Therefore, the only real chance poor parents have is a voucher that will enable them to shop for schools that can provide the kind of education that is suitable for their children.

In Chicago, 46 percent of public schoolteachers who live in the city send their children to private schools—more than twice the incidence of nonteachers. Obviously, they know something. It is only fair that poor parents of all races have the same opportunity and choice of public school teachers. We believe at the national center that the best option for poor parents quality education is an educational voucher to provide a consumer choice for parents, and the accountability of educational institutions.

Senator DURENBERGER. Robert, thank you very much. I appreciate very much your being here. And I trust, as in the past when we have looked at alternative delivery systems and alternative financing, you will agree to be a continuing resource to the committee for further appropriate recommendations.

Mr. WOODSON. I will, Senator. I hope hearings can be held to bring together some of the independent schoolteachers and parents because in this great debate, we seldom hear from the people who are experiencing the problem. They are too often excluded from deliberations about what is best for them.

Senator DURENBERGER. OK. Very good. Thank you very much for your testimony.

Dr. Paul Berman, welcome. It is a pleasure to see you again and to have you here. Your statement will be made a part of the record. You may proceed.

Mr. BERMAN. Thank you, Senator. I welcome the opportunity to testify before this committee, particularly because I remember my time in Minnesota with great fondness and considerable warmth in my heart that melted the snow around me. I remember vividly all the friends I made, and even some of the enemies.

As you know, I directed a study in Minnesota that proposed a 10-year plan called the Minnesota plan, for fundamentally reforming Minnesota's K-12 education program. The heart of the plan is a proposal to expand student choice in ways quite different from the various voucher schemes that have been debated in this country over the past two decades. Governor Perpich used the Minnesota plan to formulate his proposal for a public school option. After rejecting the Governor's proposal, the Minnesota Legislature did adopt another proposal, also based on the Minneapolis plan, providing an option for students to attend public or private postsecondary institutions. I know you are familiar with this history. I would like to put some of it in perspective by discussing at the exact student choice proposal in the Minnesota plan and then examining the issue of choice in a broad context.

The reforms proposed in the Minnesota plan apply to all States because the plan is designed to correct basic flaws in American education. These flaws have locked U.S. K-12 education into a lower level of performance than students are capable of achieving. The challenge is not simply to prevent erosion of today's level of student performance and preparation, but to move to a new plateau of learning, one in which more students learn more, learn in depth, and learn how to learn.

But reaching this plateau is hard, because the barriers to attaining more effective education lie deep in the way schooling is structured, in its system of personal and organizational incentives, and in the maze of regulations governing its conduct. Today, I want to focus only on three of these barriers.

The first barrier is the comprehensiveness of the modern high school. High schools generally offer a comprehensive range of courses covering academic, general, and vocational education, as you know. At the same time this one institution, the comprehensive high school, has been asked to fulfill the democratic ideal that all students should have a common and equal school experience. The reality, however, does not resemble this ideal. All students in the same school do not have similar or equivalent courses. Moreover, the evidence is clear that many students of comprehensive schools are neither well prepared for college nor for work.

Multiple missions of the comprehensive high schools have beget multiple confusion and much inefficiency.

The second basic barrier to more effective education is tracking. In today's schools, students are separated into learning tracks according to their presumed ability. Such segregation is highly correlated with class and race and is, therefore, undemocratic. Moreover, and I would like to emphasize this, it is educationally unsound. The vast majority of students, those excluded from the highest track, are expected to learn less, are given less challenging material, and not surprisingly, they achieve less.

Research has shown conclusively that all students learn more when tracking is eliminated.

The third barrier is that schools lack incentives for deep change. Schools, on the one hand, are caught in the web of Federal, State, and district regulations and, on the other hand, are not subject to public accountability for the performance of students in their schools. Their organizational incentives, therefore, push them toward maintaining things as they are and changing the minimum to deal with public pressure or to meet regulations.

Some exceptional schools rise above these problems. But generally, schools have little incentive to attempt deep change, and therefore, it is hard for them to keep pace with changes in the world.

These three flaws that I mentioned must be corrected if American education is to achieve a new plateau of learning. Specifically, I believe, the following reform from the Minnesota plan would change the incentives in school, change the structure, and remove barriers to more effective education.

The reform is this: Secondary education should be restructured so that today's junior and comprehensive high schools are phased out. Instead, all students should receive 4 years of core academic education in grades 7 through 10. After completing grade 10, students should take 2 years of specialized education in public or private institutions of their choice. This is the proposal that was adapted in one way by Governor Perpich, in another way by the Minnesota Legislature.

I would like to review briefly advantages of this reform.

One, the mission of high schools will become clear again, namely, to provide a core academic education for all students in grades 7 through 10.

Two, tracking could be eliminated, because all students would be expected to master core academic subjects. Consequently, we would expect student academic performance to improve dramatically.

Three, students in grades 11 and 12 could choose specialized education that matched their initial career aspirations. Some might choose college preparation, others vocational or technical education, and still others might select fine arts or music and so on. The level of student preparation for their post-K–12 life would greatly increase, and so might their motivation, because students are making the choice.

Four, with this proposal, public high schools would have incentives to develop quality programs in grades 11 and 12 because there would be competition for students. Public school districts will do very well in this competition, and they would undoubtedly continue to be the primary provider of education. But they would have more focused, more efficient, high-quality programs.

Public schools would also compete with each other, with private institutions, with existing postsecondary institutions such as community colleges, State vocational schools and so on. This limited competition would stimulate deep change, efficiency, and excitement—and it could foster basic and equitable education for all students.

In summary, the restructuring I am proposing would take advantage of strengths in the best European systems, while preserving, in fact, strengthening, the American ideal of quality education for all. It would restore meaning to the high school diploma, and lay the groundwork for U.S. education to rise to a higher level of efficient and effective teaching and learning.

Finally, I would like to mention two broad points about expanding student choice.

First, unconstrained student choice would not produce better education. Student choice after grade 10 makes sense in this proposal, because students will have had their basic education and therefore, would know enough to choose responsibly without much risk. After all, students could switch back and forth after they had made their choice.

In contrast, I believe a full-scale voucher system beginning in elementary or the early grades of secondary school would do more harm than good.

Second, the proposal here is not a panacea. You may hear testimony that student choice in education is the answer. No such scheme is the answer. Expanded student choice should not be an end of itself. It should be part of a system of reform that corrects a variety of deficiencies in the current system. For example, there are currently problems in the balance of State-local control, problems of governance within districts, very important problems in instruction, in teaching, and in the conditions of teaching.

The Minnesota plan offers reform in all these areas. I have attached to my testimony a brief review for you of the other principles in the Minnesota plan.

Thank you, Senator.

Senator DURENBERGER. Thank you very much. We appreciate your testimony a great deal.

[The prepared statements of Messrs. Woodson and Berman follow:]

STATEMENT OF ROBERT L. WOODSON, PRESIDENT, NATIONAL CENTER FOR NEIGHBORHOOD ENTERPRISE, WASHINGTON, DC

> While the public schools will be necessary to serve the majority of students, I believe that parents and students should have a choice, and it should not be completely determined by the amount of money that a parent has.
>
> Floretta McKenzie, Superintendent
> Public Schools of the District of Columbia

Of the 39,500 students who enrolled as ninth graders as the class of 1984 in Chicago, 21,000 of them failed to complete high school within the public school system. Of the 18,500 students who did graduate, only 6,000 were able to read at or above the national twelfth grade average. Of the other remaining 12,500 graduates, 5,000 were reading at or below the junior high level.

Even more desperate is the plight of the minority students who attend Chicago's predominately black and Hispanic high schools--almost two-thirds of that original class of 1984. In these schools, which initially enrolled 25,500 ninth graders, of the 9,500 students who did graduate, only 2,000 could read at or above the level considered average for the rest of the country.[1]

Many inner-city children are trapped in inferior public schools, and for a large number this means a life of functional illiteracy, unemployability and poverty. These children, unfairly labeled uneducable or learning disabled, have been abandoned by public school systems without alternatives for acquiring even basic skills. The system has produced low-achievers either through unfair labeling, lack of attention to specific learning problems, or lack of discipline.

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[1] The Bottom Line: Chicago's Failing Schools and How to Save Them (Chicago: Design for Change, 1985), pp. 1-5.

In fact, it is increasingly clear that more and more public school systems are unable to respond to the basic educational needs of inner-city and disadvantaged students. Because the children are taking much too long to learn to read, write, and do basic computations, they are losing interest, dropping out, or being "pushed out," and, in fact, the rate of youth unemployment can be linked directly to this "miseducation."

Many parents of minority and poor children are disillusioned by this lack of quality in traditional public school systems--especially large inner-city schools.

As the subsequent educational debate rages on, it should come as no surprise, then, that solutions to this problem are coming not from within the public school system but from without. The private school network is becoming an option to parents of many urban minority students in their quest for quality education. Many parents of poor and minority children are controlling the education of their children, by choosing neighborhood-based independent schools.

The spark for these schools has come from the work of competent neighborhood leaders at the grassroots level. This type of organization has long been effective in addressing social problems from child care to economic inequities and community development. Now these neighborhood self-help resources are responding to the failure of public schools by establishing academically sound neighborhood-based independent schools. These independent schools are meeting the challenges of educating minority and poor children.

Thus, many parents have found a way to escape the educational crisis. They have found or created schools that respond to their needs by finding committed educators to help their children succeed. While these parents generally do not seek to replace the role of the public school in the education of all minorities, they do seek to establish alternatives that can be nurtured into viable institutions that can make valuable and equal contributions. And the results have been encouraging.

Preliminary findings from a National Center for Neighborhood Enterprise (NCNE) independent school survey show that many students are outperforming their public school counterparts. This survey, a sample from more than 250 independent schools in selected cities nationwide, proves there are successful educational options for black, Hispanic, American Indian and Asian children from urban environments.

Most of the schools are owned and operated by minorities with an average enrollment from 150-100 students, usually from preschool to eighth grade, although there are some high schools. Most schools require in-house or standardized testing for placement and most graduates go on to private schools or specialized or selective public high schools. A majority of the teachers, many of whom are former public schools teachers or administrators, live within the community and are of the same ethnic/cultural background as the children they teach. Furthermore, the curricula are often shaped by a formal cultural or religious doctrine, which has brought much needed discipline to the educational process.

In New York, for example, in an area described by police as one of the city's worst drug-trafficking areas, Lower East Side International School operates in an old public school. Through the leadership of its founder Wallie Simpson, it has established a remarkable record of teaching disadvantaged youth. Seventy percent of the youngsters are from single female-headed households, and many of the students are labeled learning disabled. Against these odds, children are graduating with proficient skills in two languages, computers and advanced science. Such schools as the Lower East Side International School work closely with families to create high expectations for their students in an atmosphere where success rather than failure is the norm.

NCNE has found that often these independent schools lack endowed academic and social programs. Instead, they are often located in inadequate physical facilities in some of the poorest inner-city neighborhoods. Yet, teaching and learning in these schools remain unparalleled.

Most of the schools have curricula guided by a formal cultural or religious doctrine that provides educational discipline. Coursework includes high level math and foreign language instructions at early grade levels. Most schools have a formal program in computer literacy. The schools provide global awareness to their students who will have to compete in a world outside of their environment. Reading and writing skills are emphasized and the academic performance of students is measured periodically by standardized tests.

In New York City, St. Thomas Community School has been successful in taking children who have been negatively labeled in the public schools as underachievers or children with disciplinary problems and preparing them for some of the best high schools in the city. The Ivy Leaf School in Philadelphia emphasizes the strongest academic experience possible, and beginning the the second grade the students are exposed to computer science. From the seventh grade they are introduced to a pre-engineering course, and in the ninth grade they are offered special courses of enrichment in medicine, law, and business administration.

In Trenton, New Jersey, the Afrikan People's Action School teachers are proud to "take cast-off materials and educate children cast off from the public schools." They teach students to take life as they find it, build on it, and make it better.

In addition, inner-city minority parents have shown a willingness to endure financial burdens for the education of their children using welfare checks, depending on family and friends for tuition, working multiple jobs or using weekend employment to accomplish educational objectives. One family, after the tragic death of five of its children in a fire, made a commitment to provide the best possible education for the remaining four. After the death of her husband, the mother, combined her social security benefits with her salary from a job in a laundromat to insure that the children could continue their studies in a private school.

All of these schools teach values, have high academic standards and the parents are active and informed.

We must design public policy to extend the option of quality education to low-income parents, stimulating educators to provide more responsive programs and giving families a greater role in selecting schools for their children.

Educational vouchers could provide a consumer choice for parents and accountability of educational institutions to them. Vouchers would empower low-income parents to choose any public or eligible nonpublic school for their child with the provision that tuition would be paid where the pupil attends.

According to research by Denis Doyle at the American Enterprise Institute, 46 percent of public school teachers who live in Chicago send their children to private schools--more than twice the incidence of non-teachers. Vouchers would give poor people the option currently exercised by Chicago's public school teachers, for example.

Children from low-income and minority families should have the options beyond public school. In fact, we believe that they have a right to that choice.

Testimony Before the Subcommittee on
Intergovernmental Relations of the United States
Senate Committee on Government Affairs

Dr. Paul Berman
Executive Director
Center for Policy Alternatives

A PROPOSAL TO EXPAND STUDENT CHOICE

Thank you for this opportunity to testify before the Committee. My name is Paul Berman. I am Executive Director of the Center for Policy Alternatives and President of BW Associates, located in California. I directed a study in Minnesota that proposed a ten-year plan, called the Minnesota Plan, for fundamentally reforming Minnesota's K-12 education system. The heart of the Plan is a proposal to expand student choice in ways quite different from the various voucher schemes that have been debated in this country for over two decades. Governor Perpich used the Minnesota Plan to formulate his proposal for a public school open enrollment plan. The Minnesota legislature rejected the Governor's proposal but did adopt a reform, also based on the Minnesota Plan, which provides an option for students to attend public or private post-secondary institutions.

The reforms proposed in the Minnesota Plan apply to all states, because the Plan is designed to correct basic flaws in American education. These flaws have locked U.S. K-12 education into a lower level of performance than students are capable of achieving. The challenge is not simply to prevent erosion of today's level of student performance and preparation, but to move to a new plateau of learning -- one in which more students learn more, learn in-depth, and learn how to learn.

Reaching this new plateau is hard, because the barriers to attaining more effective education lie deep in the way schooling is structured, in its system of personal and organizational incentives, and in the maze of regulations governing its conduct. Today I will focus on three barriers:

1. The Comprehensive High School

   High schools generally offer a comprehensive range of courses, covering academic, general and vocational education. This one institution is asked to meet the democratic ideal that all students should have a common (and equal) school experience. The reality does not resemble this ideal, unfortunately. All students in the same school do not have similar or equivalent courses. Moveover, the evidence is clear that many students of comprehensive schools are neither well prepared for college or work. Multiple missions have beget multiple confusion, and much inefficiency.

2. Tracking

   Students are separated into learning tracks according to their presumed ability. Such segregation is highly correlated with class and race, and is therefore undemocratic. Moreover, it is educationally unsound. The vast majority of students -- those excluded from the highest track -- are expected to learn less, are given less challenging material, and, not surprisingly, achieve less. Research has shown that all students learn more when tracking is eliminated.

3. Schools Lack Incentives for Deep Change

   Schools, on the one hand, are caught in a web of regulation, and, on the other hand, are not subject to public accountability for student performance (whose measurement is often obscure). Their organizational incentives therefore push them toward maintaining matters as they are, changing the mminimum to defuse pressure and fulfill regulations. Some exceptional schools rise above these problems, but generally schools have little incentive to attempt deep change.

These three flaws must be corrected if American education is to achieve a new plateau of learning. The following reform from the Minnesota Plan alters the structure of secondary schooling, changes incentives, and removes the three above barriers to more effective education:

> Secondary education should be restructured so that today's junior and comprehensive high schools are phased out. Instead, all students would receive four years of core academic education in grades 7-10. After completing grade 10, students would take two years of specialized education in public or private institutions of their choice.

The advantages of this student choice reform include:

1. The mission of high school would become clear -- namely, to provide a core academic education for all students in grades 7-10.
2. Tracking could be eliminated, because all students would be expected to master core academic subjects. Consequently, student academic performance could dramatically improve.
3. Students in grades 11 and 12 could choose specialized education that matched their initial career aspirations: some might choose college preparation; others vocational/technical training; and still others might select specialized education in fine arts or music, in supervised community service, and so on. The level of student preparation for their post K-12 life could greatly increase -- and so might their motivation because they are making their choice.
4. Public high schools would have incentives to develop quality programs in grades 11 and 12, because there would be competition for students. Public school districts would do well in this competition, I believe, and they would undoubtedly continue to be the primary providers of 11th and 12th grade education, though their programs would be stronger and more focused much as magnet school programs are today. Public schools would compete with each other, private institutions, and existing post-secondary institutions such as community colleges, state vocational schools, and four-year colleges. This limited competition could stimulate deep change, efficiency, and excitement -- and it could foster basic and equitable education for all students.

In summary, the proposed restructuring would take advantage of strengths in the best European systems, while preserving -- indeed, strengthening -- the American ideal of quality education for all. It would restore meaning to the high school diploma, and prepare the groundwork for U.S. education to rise to a higher plateau of effective and efficient teaching and learning.

Finally, two broad points about expanding student choice should be kept in mind. First, student choice after grade 10 makes sense in this proposal, because students will have had their basic education and therefore would know enough to choose responsibly without much risk (they could always switch). In contrast, I believe a full-scale voucher system beginning in elementary or the earlier grades of secondary school would do more harm than good.

Second, the proposal advanced here is not a panacea. Nor are other schemes. Expanded student choice should not be an end in itself. It should be part of a system of reform that corrects deficiencies in the current system -- for example, the balance of state/local control, governance within districts, curriculum and instruction, and the organization and conditions of teaching. The Minnesota Plan offers reforms in all these areas. (I have attached a summary of the Plan to my written testimony.) Piecemeal reform has not worked in the past, because the problem the the reform is trying to correct becomes chanelled into other weak areas. I therefore urge the Committee to keep in mind the need for wide-ranging improvement that will enable U.S. education to successfully rise to the challenge of the 21st century.

PRE-PUBLICATION DRAFT

THE DESIGN OF A NEW EDUCATION SYSTEM

Highlights of The Minnesota Plan

Paul Berman

P-101

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This document presents highlights of The Minnesota Plan, a design for the reform of K-12 education.

The plan was developed by B W Associates under contract to the Minnesota Business Partnership, an organization of chief executive officers of major Minnesota corporations.

The Partnership wanted B W Associates to assess Minnesota's educational system, and, if appropriate, propose steps that the citizens of Minnesota could take to improve their schools.

B W Associates found that Minnesota public education has been better than average, but is now barely acceptable in light of student needs to prepare for a demanding future in an increasingly complex world. The major problems in Minnesota education mirror underlying structural flaws in the American education system. Fine-tuning this system will not enable students to be prepared for the challenges of the twenty-first century. Elementary and secondary education needs to be restructured and modernized.

The Minnesota Plan offers a practical, step-by-step process to accomplish this restructuring and modernization.

The Plan was endorsed by the Minnesota Business Partnership in November, 1984. Several key aspects of the plan were adapted and passed by the legislator in June 1985. Other aspects are now being debated.

> We're running hard to stay in place. The world is changing fast. Five years from now schools are going to have to be different, and we won't be ready unless people are willing to say we have problems and we have to change.
>
> A veteran Minnesota teacher

By most accounts, Minnesota has a good K-12 educational system, with strong public and financial support and student test scores that are higher than national averages.

Yet neither the U.S. nor the Minnesota average is now acceptable. As good as Minnesota's education system is, it has not kept pace with expanding knowledge and social demands over the last thirty years. Minnesota students, like other American students, are not being adequately prepared for citizenship and work in an increasingly complex and competitive world.

Minnesotans are well aware of these problems. For over two decades, Minnesota and most other states have increased funding for education and tried numerous special programs and innovations in an attempt to obtain significant improvements. They have not succeeded, despite sacrifices by dedicated teachers and administrators.

This constant "running to stay in place" has demoralized educators, discouraged parents, and fueled cynicism and doubt among legislators. And matters are likely to get worse, unless ways are found to reverse current trends and move K-12 education to a new plateau of excellence and efficiency.

The conclusion is inescapable: As presently organized, Minnesota education, like all American education, has reached the limits of its effectiveness. More money per student has not helped. Nor has tinkering.

It is time to go beyond rhetoric: Time to take concrete steps to modernize American education, building on its substantial strengths and removing its unecessary weaknesses. It is time for major restructuring.

FLAWS IN AMERICAN EDUCATION

Students in today's schools are not being adequately prepared for tommorrow's challenges. They need to learn more, learn in-depth, and learn how to learn.

Yet a number of barriers to effective education lock the current system into lower levels of performance than American students are capable of achieving:

- o Schools are asked to do too much, and are over-regulated. Too many courses are offered; the curriculum does not go deep enough; and schooling often is unfocused.
- o Students are separated into "tracks" that prevent most from learning as much as they could. They are promoted without objective measures of achievement, are not challenged to develop reasoning skills, lack adequate career counseling, and are not free to develop their special talents.
- o Teachers are greatly overburdened, and cannot spend enough time with each student. They are isolated from one another, have little say about school decisions, and are not treated as true professionals. Their training tends to be largely irrelevant to teaching and grows quickly obsolescent. Many practicing and potential teachers are drawn to other careers that have more opportunities for learning and advancement --and more respect from the public.
- o Principals do not have authority to create quality schools attuned to community values.
- o Superintendents and board members find it hard to run their districts efficiently, and they lack economic incentives to do so.
- o Parents do not have means for assessing their children's education and holding schools accountable. Too often, they believe their children must settle for mediocre schooling.

These problems reinforce each other, so that attempts to change one at a time are bound to yield only minor improvements.

KEY REFORM PRINCIPLES

The Minnesota Plan challenges state and local officials, school administrators, teachers, professional associations, community members, parents and pupils to join together to forge a new education system.

Over ten years, the Plan would:

1. Restructure education
   - o Focus Studies on Core Academics in grades 7-10
   - o Provide Student Choice of Specialized Education in grades 11-12
2. Redistribute authority
   - o Deregulate State Course Requirements
   - o Establish State Tests
   - o Provide More Local Control
   - o Guarantee Stipends for Student Electives
3. Reorganize teaching
   - o Create Teacher Teams
   - o Eliminate Tracking
   - o Promote Mastery of Subjects by All Pupils
   - o Professionalize Teaching
4. Phase-in reforms gradually

The following pages outline specific reforms designed to implement these principles. Details can be found in the full reports.

SPECIFICS OF THE MINNESOTA PLAN

I.

Restructure education to provide core academic education for all students followed by specialized training selected by each student

- **Focus Studies on Core Academics in grades 7-10**

All students would concentrate on a core academic program (Communications, Social Studies, Mathematics, Science) in grades 7-10 -- plus other subjects needed for a well-rounded education.

The core program would include basic literacy training and education in reasoning, thinking critically, and applying abstract knowledge to specific problems.

Junior and senior high schools would be combined into a common high school.

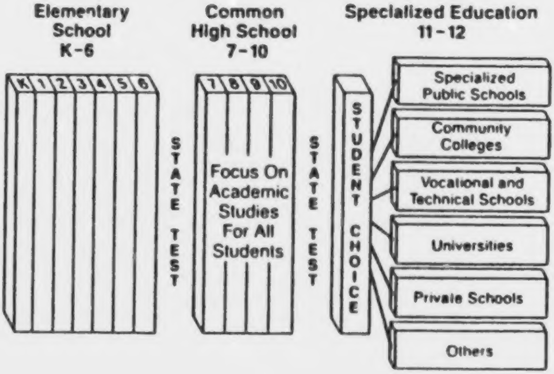
- **Provide Student Choice of Specialized Education in grades 11-12**

Students would receive a state stipend to choose further specialized education in grades 11-12 that furthers their career aspirations.

Students could go to specialized programs in their high school, other public high schools, community colleges, vocational or technical schools, universities, or state-certified private institutions.

Specialized education might be in college preparation, vocational/technical training, arts and music, etc.

The New 7-10 Plus 2 System


Elementary School K-6
K
1
2
3
4
5
6
STATE TEST
Common High School 7-10
7
8
9
10
Focus On Academic Studies For All Students
STATE TEST
STUDENT CHOICE
Specialized Education 11-12
Specialized Public Schools
Community Colleges
Vocational and Technical Schools
Universities
Private Schools
Others

II.

Redistribute authority to provide clearer state direction, more local control, and student choice of electives

o Deregulate State Course Requirements

State mandated course and graduation requirements would be eliminated, in favor of

Statements of competencies that all students would be expected to master.

o Establish State Tests

State tests would be required of all students before they leave the sixth and tenth grades.

The tests would be subject-matter exams designed to challenge students to reason, write clearly, and solve problems.

Test results would establish what students had learned. The state would not set pass/fail grades for these tests, but would publish average test scores for all schools.

o Provide More Local Control

The district, not the state, would decide on student course and graduation requirements both for core subjects and other subjects that districts may require their students to take (e.g.,foreign languages).

The school, not the district, would control curriculum and instruction.

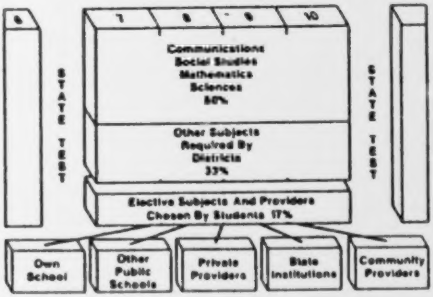
Elected school-level Community Boards would have oversight responsibility for curriculum and instruction, approve providers of student electives, and have authority to "contract out" or "contract in" for teaching services.

o Guarantee Elective Stipends

In grades 7-10, students would have one guaranteed Free Elective per semester, which they could take at school or at approved providers.

Common High School

Educational Program


6
7
8
9
10
Communications
Social Studies
Mathematics
Sciences
50%
Other Subjects
Required By
Districts
33%
Elective Subjects And Providers
Chosen By Students 17%
STATE TEST
STATE TEST
Own School
Other Public Schools
Private Providers
State Institutions
Community Providers

III.
Reorganize teaching to insure that all students learn more, instruction is managed more efficiently, and quality teachers are attracted and retained

o Create Teacher Teams and Eliminate Tracking

Teachers would be organized into teacher teams, composed of Lead Teachers, Teachers, Teaching Assistants, and Adjunct Teachers (experts from the outside).

Teacher teams would be responsible for the same groups of students throughout their school years, and an Individual Learning Program and counseling for each student.

Each school could adopt longer class times coupled with fewer classes per week, or other means for achieving more flexible classroom management and lower teaching loads.

o Promote Mastery of Subjects by All Pupils

Teacher institutes would offer training and assistance so that classroom teachers would --

Identify a high level of performance that all students would be expected to master;

Divide the curriculum into small units, test frequently to evaluate student progress, and provide more instruction for slower pupils and enrichment for faster pupils;

Use students to teach fellow students.

o Professionalize teaching

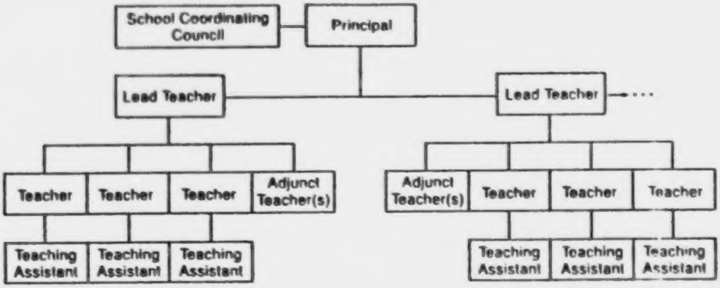
New teachers would be required to pass a professional examination, serve an apprenticeship, earn a Master's degree, and be evaluated by peers.

Lead Teachers would manage teacher teams; Teachers would supervise untenured Teaching Assistants and Adjunct Teachers.

Lead teachers would develop models for new teaching, train teachers, and participate in school-site management.

Teachers would automatically receive cost-of-living raises in addition to salary increases.

The School and Teachers Teams


School Coordinating Council
Principal
Lead Teacher
Lead Teacher
Teacher
Teacher
Teacher
Adjunct Teacher(s)
Adjunct Teacher(s)
Teacher
Teacher
Teacher
Teaching Assistant
Teaching Assistant
Teaching Assistant
Teaching Assistant
Teaching Assistant
Teaching Assistant

IV.

Phase-in reforms gradually to minimize disruption and allow for trial-and-error and grassroots participation

o Minimize Disruption During Transition

Implement plan over a ten-year period, taking care to minimize disruption to students, teachers and administrators.

Phase-in higher-level learning and student choice on a grade-by-grade basis as early phases of the Minnesota Plan prove themselves.

Establish fund to ease teacher shortages in critical areas.

o Fund Experimentation

Establish experimental schools to test higher-level learning models, new curriculum, school-site management, etc.

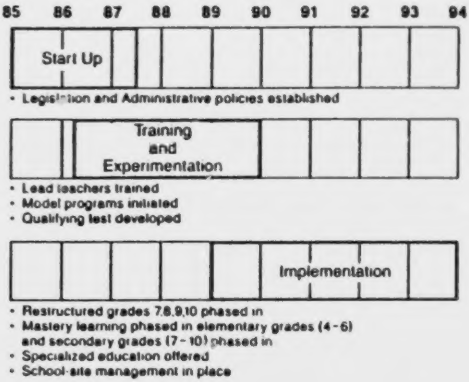
o Promote Broad-Based and Voluntary Participation

Use incentives, training, and assistance rather than mandates to promote voluntary participation and maximum involvement of educators at all levels of the system.

Set up teacher institutes directed by teachers to develop models and train the teaching force, using teachers to train teachers.

Establish Entreprenaurial Development Fund for teachers who would like to develop their own offerings on a contract basis to schools.

Transition to the New Education System



- Legislation and Administrative policies established

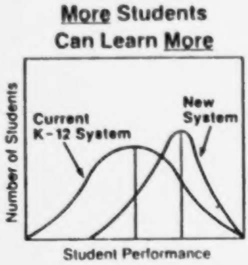
- Lead teachers trained
- Model programs initiated
- Qualifying test developed

- Restructured grades 7,8,9,10 phased in
- Mastery learning phased in elementary grades (4-6) and secondary grades (7-10) phased in
- Specialized education offered
- School-site management in place

WHAT THE PLAN WILL DO

The reforms highlighted in this pamphlet would modernize K-12 education and basically alter what the American public can justifiably expect from its schools.

The reforms aim for tommorrow's students to achieve a new and higher plateau of learning and preparation. When implemented, they should enable average student performance to consistently reach a level now considered to be attainable solely by the top twenty-five percent of students, as illustrated.



Past educational change efforts have typically had disappointing results because they have left untouched the existing structure of organizational incentives and public accountability, and, therefore, have not been fully implemented.

These reforms, in contrast, create new structures with new incentives for students to realize their potential, teachers to be creative, and schools to excell and be efficient. They remove barriers that have prevented educators from making lasting and effective change.

* * *

The reforms would restore the common high school experience, and set statewide academic priorities while strengthening local control and accountability.

The state would set basic goals for education; educators would be responsible for helping students to meet them.

The community, along with school personnel, would choose courses outside the core academic program that reflect community values.

* * *

Both high- and under-achieving students would be challenged and expected to learn in more depth, work cooperatively with their peers, and take responsibility for their initial career direction. Their education would be more structured in core areas, but freer in areas of their interests.

Students would have the opportunity to work, during their formative years, with the same group of peers and with teachers who would know them well, as members of mini-schools within schools.

A high school diploma would regain its meaning.

* * *

Teachers would have closer contact with students, as well as with their colleagues.

They would have flexibility to design courses that allow more productive teaching loads and integrate more adults into classroom instruction.

They would be challenged to develop creative programs unfettered by unnecessary state or district constraints.

* * *

The teaching profession would be asked to rise to a higher level of professional development.

Entry standards for teachers would be upgraded, preparation for teaching would be deepened, and the profession would assume greater responsibilty for monitoring itself.

Young people could enter the profession for a short period as Teaching Assistants, and then leave or become Teachers and eventually advance toward positions as Lead Teachers.

* * *

Principals, in concert with teachers, would have greater authority over curriculum and instruction decisions. They could provide educational leadership as directors of coherent management structures, and have enhanced opportunities to create truly effective schools.

* * *

Superintendants and Boards of Education would have considerably more power to design efficient, high quality districts --and they would have the economic incentives and political incentives to do so.

They would decide, free from state regulations, what student requirements should be, where districts should develop special competencies to meet community needs and attract students, and where the district should drop ineffective, high cost offerings.

Districts could form alliances with other districts, post-secondary institutions, and community organizations to offer new and exciting programs for students at lower costs.

* * *

The net effect of these, and other components of the Minnesota Plan not mentioned in this brief overview, would be to introduce savings and efficiencies that could be reinvested in improving instruction.

The full Plan proposes alternative detailed designs for implementation, demonstrating that comprehensive reforms of this magnitude are practical and affordable.

Altogether, the Minnesota Plan offers a framework for a more productive and exciting education system that would allow the average American student to be as well, or better prepared, for the future than the elite few educated in the best European educational systems.

Senator DURENBERGER. Now we will hear from people whose business it is to implement changes. The first witness is Dr. Ruth Randall, commissioner of education in St. Paul. Dr. Randall holds a doctorate in education from the University of Nebraska. Our second panelist, Dr. David Bennett, is superintendent representing all St. Paul public schools. Prior to that, he represented schools in Milwaukee. Dr. Bennett is the author of "School Desegregation Plans at Work" and "Educational Adequacy."

Our third panelist is Mr. Denny Miller, who is attending here on behalf of Rex Crossen, who is unable to be with us today. He will describe the dropouts from public school systems. Dr. John Murphy, the superintendent of Prince Georges County schools, could not stay to the end of the hearing today and will return to the subcommittee for another scheduled day of hearings.

All of your statements will be made part of the record. Dr. Randall, we will begin with your summary. Thank you.

TESTIMONY OF DR. RUTH E. RANDALL, COMMISSIONER OF EDUCATION, ST. PAUL, MN; DR. DAVID A. BENNETT, SUPERINTENDENT, ST. PAUL PUBLIC SCHOOLS, ST. PAUL, MN; AND DENNY M. MILLER, CONSULTANT, EDUCATIONAL CLINICS, INC., WASHINGTON, DC, ON BEHALF OF DR. REX CROSSEN, PRESIDENT, EDUCATIONAL CLINICS, INC., SEATTLE, WA

Ms. RANDALL. Mr. Chairman, it is a real pleasure to be with you today to talk about this bold new direction in Minnesota's educational policy. That direction, referred to as family choice, provides parents and students a substantive role in the educational decisionmaking process. There have been many trends, as we look at educational restructuring, to which Gov. Rudy Perpich and the Minnesota Legislature have responded. The Post-Secondary Enrollment Options Act was passed in 1985. This act was part of an open enrollment plan proposed by our Government which would have enabled parents to send their children to any school, regardless of district boundaries. While the complete program was not passed, an important component was enacted.

That component enables 11th and 12th grade students to enroll in important programs at eligible postsecondary institutions. This new option provides access to an increased array of courses and programs, as well as promoting rigorous education pursuits for our students. Secondary students can enroll full- or part-time, without cost to them, in any public post-secondary institution or in private institutions which are 4 year, liberal arts degree-granting institutions located in Minnesota.

It will be possible for very ambitious and/or talented students to complete up to 2 years of college by the time they graduate from high school. Admission decisions are made by the postsecondary institutions. The Minnesota Department of Education is working on consultation with postsecondary education to implement this program.

The Post-Secondary Enrollment Options Act, which has parent/student choice as the primary decisionmakers, is an important step in the educational restructuring process.

It utilizes the current resources of our postsecondary system to expand the opportunities for secondary students without increased cost. This is an example of the type of social system reform being demanded by various publics—getting more out of what we already have, rather than adding to our current system.

Approximately 1,500 of the 120,000 juniors and seniors, slightly over 1 percent in Minnesota, are participating in this program this fall. This number is expected to increase during the year. The program has many positive aspects, including: One, it significantly amends the course offerings at every high school in the State by including the postsecondary courses without increasing costs; two, it provides increased opportunities for students who have exhausted the high school offerings without mandating any new programs; three, it increased the option of students to participate in rigorous educational programs without creating a new institution; four, it initiated critical dialog between our secondary and postsecondary education systems on quality; five, it enables students to try a postsecondary experience.

Students who may otherwise not participate in a college or vocational program now may decide that such a program should be pursued. This result should be a better educated citizenry.

Six, the competition between secondary and postsecondary schools will increase, creating an awareness of student goals and/or interests and stimulating increased quality in both systems; seven, it will reduce somewhat the financial burden of postsecondary education on our families.

This new program is not without drawbacks. Some students do not have convenient access to the postsecondary school. Secondary and postsecondary schools have different schedules. The high school may have difficulty planning for staff and space allocations. There is an overlap between some high school and postsecondary programs. Not all postsecondary programs are rigorous. The dual credit system can create 18-year-old college juniors. Ultimate responsibility for the student's education—the school district or the postsecondary institution—is questioned.

While all of these aboved problems need to be addressed, they are matters which innovative education managers will be able to successfully solve.

This legislation raises a number of substantive issues which we are addressing at this time. Those include these questions; One, how can the high schools and the postsecondary schools cooperate to provide a continuum of programs and services; two, because the student is being served by two systems, how can we assure that the needed counseling services are provided to help students and parents make appropriate choices; three, because the high school has reduced financial resources with which to work, how are appropriate programs assured for students not enrolling in this program.

Four, since postsecondary programs are not always immediately accessible totaled students, how can various models be used to assure equal access? Some of these issues are substantive and will be resolved through policy modifications. Others are logistical and will be resolved through management ingenuity. I am confident, however, that the benefits of this program are of such a magnitude that the public will demand resolution to any problems.

Thank you very much.

Senator **Durenberger**. Thank you very much.

David, thank you very much for being here today. We appreciate it.

Mr. **Bennett**. Thank you, Mr. Chairman.

There is an old American proverb which states that: "Winter never rots in the sky." Nowhere is the truth of that dictum clearer than it is in our State from November to April. So it was probably fitting that Governor Perpich chose an icy morning last January to announce his proposal to allow Minnesota 11th and 12th graders, along with their parents, to choose their high schools without regard to school district lines—a proposal which sent shivers through more than one established education organization in the State. I greeted the proposal warmly, although I didn't let my enthusiasm keep me from making suggestions to improve it.

Let me briefly describe what the Governor proposed, what the legislature enacted and what we are doing about it in St. Paul, before I tell you why I support public school choices for parents and students. The Governor proposed to let students in the last 2 years of high school choose any public school in the State. Basic State aid would follow the student. Receiving districts could choose not to participate in the program at all. But if a district admitted one student under the legislation, it must receive all on a nonselective, space-available basis. Safeguards were proposed to avoid segregation of city schools under the plan.

The Governor proposed to extend choice to all of the grades beginning in the fall of 1988. In addition, he urged development of learner-outcomes and a statewide testing program with results published to inform parent and student choices.

What emerged as law 6 months later was a little-known, seldom-debated section of the Governor's proposal, which allows public school 11th and 12th graders to attend Minnesota public institutions or private institutions for high school and college credit at public expense. State aid would follow the student. This program has met a chilly reception from the mainline education groups in our State. It was passed in part because opponents' energies were burned up fighting the main thrust of the Governor's plan, and in part, through the potent agency of the House majority leader—a woman of the opposite political party, by the way, from the Governor.

In spite of the late passage of the legislation, I'm told that over 1,000 Minnesota students are already participating in the program this fall, including 89 from the city of St. Paul. We are taking steps to make the program a practicable option for as many of our students as possible. We geared up at the central office level to help counselors help students work through scheduling problems and other formidable obstacles to participation. I have challenged the staff of our own postsecondary vocational institute to design programming for secondary students and we are cooperating with the University of Minnesota administration in a joint task force to plan university course offerings on our high school campuses, perhaps as early as this spring, but no later than next fall. I stand ready to work with any and all of the State's postsecondary schools to provide college-level options, not only to our best and brightest students, but to all of our students.

Now let me tell you why I support real choices for public school parents and students. Governor Perpich said it well when he said, and I quote, "We are aimed at giving parents and students more choices to find excellence in education, while giving local school officials more opportunities to produce good programs."

First of all, there is not a single best way to learn what's worth knowing. Diversity enriches us, and it need not divide us. The fabric of our society is resilient indeed, and there is no reason to believe that it will be strengthened, if it's woven on identical looms with identical parts from a single thin thread. Schools will be better if they are not all the same.

Second, choice fosters commitment. When you choose a school, you accept a stake in making it work for you. Nowhere in St. Paul are our parents more aggressively active in the education of their children than in our magnet schools and other citywide options.

Third, choice is itself instructive. We all make decisions in life and learn to live with the consequences. I see no reason to insulate children or their parents from meaningful decisionmaking.

Finally, introduction of market influences can enable teachers and administrators. There are seldom real opportunities where there are no risks. Our profession will be strengthened if we nurture some entrepreneurs in our midst.

Let me be clear. I am not advocating an unregulated market system for public schools. Society has an interest in the quality of schools and in the equity of the services they provide. The hands that guide the schools at every level ought to be both visible and accountable. In that vein, we are served well by our elected officials.

Nor do I support spending public dollars on private schools, even through a choice plan. The arguments on both sides of this issue are tried. So I won't trouble you with all of mine. But I would argue that strings follow money like the night follow the day; that public funds, no matter how indirectly delivered, threaten the independence of private schools; and the public investment in private schools through vouchers is more likely, over the long term, to homogenize public schools and reduce the choices of parents and students than to increase them.

What is happening in Minnesota is neither new nor radical. City school districts throughout the country have been operating magnet school programs for decades. It has been my privilege to work with school officials in both St. Louis and Kansas City, and some 16 other school districts across the country on desegregation plans which provide choice to improve instruction.

In 1976, I helped draft legislation authored by then Wisconsin State senator—now Congressman Sensenbrenner—which created financial incentives for school districts to transfer students for desegregation purposes. Milwaukee, where I was deputy superintendent, has created more than 40 citywide and career specialty programs. Students can, indeed must, choose between a neighborhood school and a wide variety of other programs. In Milwaukee, WI, in the metropolitan area, students are able to move from the city to the suburbs and from the suburbs back into the city to access their programs of choice. Presently, every day thousands of minority students from Milwaukee attend programs in 17 suburban school districts and hundreds of suburban students attend exciting programs in the city.

Again, Senator, this has been going on for the last 9 years, and it was from this experience that I have great hopes for our State.

The city and the suburbs are richer places to go to school because of it.

Let me close with an invitation to the committee to come to St. Paul to visit the six elementary magnet schools we opened this fall—operated by the way—with the assistance of a $1.5 million of Federal magnet school money.

Thank you, Mr. Chairman, for your support of that legislation. I'm sure Senators who want to expand choice in education will see their way clear to support the appropriation for the second year of magnet school assistance which is working its way through your body at the present time.

Thank you for your invitation to be here today. I am pleased to stand for any questions.

Senator **Durenberger**. Thank you very much.

Mr. Miller.

Mr. **Miller**. Thank you, Mr. Chairman.

I, like the others, also appreciate the opportunity to testify before your committee and frankly, it was an opportunity I didn't know was coming until pretty late. In World Series terms, I am pinch-hitting for our president, Rex Crossen of Educational Clinics, Inc.

Our country faces a number of difficult challenges in education policy. A recent report by the Northeast/Midwest Institute concluded that one out of five American adults is functionally illiterate. One perfectly reasonable response to evidence like this has been the efforts of the excellence-in-education movement to stiffen requirements for graduation, increase competency in basic skills, and tighten discipline in the classroom. At the same time, however, we are confronting a disturbing increase in the dropout rate.

Exclusive emphasis on making elementary and secondary education more rigorous may exacerbate the dropout problem by increasing the number of young people who cannot cope with school. We must look for innovative new approaches to the dropout problem as well. If we don't, we may create, to paraphrase the Kerner report, "two Americas, one educated and one illiterate, separate and unequal."

The number of students leaving school before graduation has been growing at an alarming rate in the last few years. At least 25 percent of the young people in our country who begin the ninth grade do not graduate from high school; in some urban areas, a majority of students drop out before graduation.

Dropouts inflict a very high cost on our society. In Washington State, they constitute about 50 percent of AFDC recipients and 70 percent of our prison inmates. They pay less taxes and are more likely to require remedial training when they are employed. Perhaps the greatest loss to our society, however, is the waste of human talent and energy when young people stop believing in themselves.

There is no question that our public schools can do more to develop specialized programs for dropouts and potential dropouts. The fact remains, however, that the very system which students reject by dropping out—or which rejects them by driving them out—is unlikely to provide all of these dropout youths with the services they need to make them productive citizens.

A public school system cannot be all things to all young people, certainly not at a cost we can reasonably afford. We need to employ additional institutions outside the public school system to adequately address the dropout problem. We need a system of institutions which specialize in addressing the full range of needs and problems of young people who have not been able to function in a public school environment.

Fortunately, the concepts of choice and private sector involvement in education can be as useful in addressing the dropout problem as they can be in promoting educational excellence for those who stay in school. In Washington State, we have developed what we believe is an exciting, cost-effective, and very successful alternative approach to the dropout problem. In 1974, Educational Clinics opened its first educational clinic for dropout youth in Everett, WA.

In 1977, the Washington State Legislature, using ECI's clinic concept as a model, enacted landmark legislation which authorized the use of State funding to pay tuition fees for eligible students at private educational clinics. Governor Deukmejian of California recently signed into law an educational clinics bill based on the Washington statute. Education leaders such as Dr. Nathan in Minnesota and others have shown interest in the educational clinics concept as well.

Educational clinics are special-purpose private schools which offer instruction in basic academic skills and employment orientation, along with counseling to motivate their students and help them solve personal problems. The program is called a clinic because it follows an individualized procedure analogous to that of a medical clinic: diagnosis, prescription, treatment, and evaluation. The clinic is a performance-based system of educational where the length of stay varies with each individual, depending on the student's ability and rate of progress. We emphasize small class size and individualized instruction.

ECI is a private, for-profit enterprise. As such, our approach is market-oriented, an orientation which is appropriate for dropouts who can choose, as in the marketplace, to return to school, to stay on the streets, or to attend an educational clinic. The market approach is also reflected in or willingness to accept reimbursement on an hourly basis; in other words, we don't get paid unless the student voluntarily chooses to attend classes. We believe there is a market for educational services directed at dropouts and that private enterprise is uniquely suited to serve that market.

We have conducted intensive followup studies on our graduates over the years. We have learned that more than two-thirds of our former students were still engaged in constructive activities, that is, employment, education, training, or military service, 2½ years after leaving the clinic program. The results after 5 years were even more positive. An outside study conducted in 1982 determined that for every dollar the State government expended for ECI services to a student, there was a $1.10 return to the government each year in social program cost savings and tax contributions.

Educational clinics cannot supply all the answers to the dropout problem, but they can supply some of them. They illustrate the value of a private enterprise approach to dropouts—that is, free choice by students, progress based on performance, payment only for classes that students willingly attend, and training and counseling geared to the individual needs of each student.

We have seen our system work at ECI. We are pleased by the interest shown in our approach by educators and public officials thoughout the country. We appreciate this opportunity to share with you some of what we have learned about how alternative private-sector educational approaches can help solve this tragic problem of teenage dropouts.

Thank you.

Senator **Durenberger**. Thank you, very much. I do appreciate your substituting at the last minute to give us a start on the variety of choices of delivery systems that are out there.

Dr. Randall, and gentlemen, I very much appreciate your being here. I regret the fact that we didn't have as much time to visit, but this is just the first of these hearings. We have been criticized, by some people who are in the education business, for even holding these hearings. This one will not be the last, and we expect that you will be involved as we go forward. Thank you very much.

[The prepared statements of Dr. Randall and Mr. Miller follow:]

TESTIMONY BEFORE THE UNITED STATES SENATE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS ON "EXPANDING STUDENT AND PARENTAL CHOICE IN ELEMENTARY AND SECONDARY EDUCATION"

BY DR. RUTH E. RANDALL
MINNESOTA COMMISSIONER OF EDUCATION
WASHINGTON, D.C.
OCTOBER 22, 1985

Mr. Chairman and members of the Committee. I consider it an honor to be here to share with you information regarding a bold, new direction in Minnesota's education policy. That direction, referred to as "family choice," provides parents and students a substantive role in the educational decision-making process.

Policies for education today are complex. They are a combination of societal, fiscal, and program priorities which have to be systematically addressed to obtain the results which we all want. Our Governor and Legislature have wisely decided that a "quick fix" will not work.

An understanding of today's challenges coupled with learning from the past helps us move towards a future which furthers excellence in education.

We need to recognize the trends which impact all of society, including education. As we move from the industrial era to the information era, institutions are being restructured. Schools are among those institutions which will have to change. The trend of multiple options in education offers a smorgasbord of learning opportunities, structures, and systems. Every aspect of education may change: who we teach, how we teach, what we teach, where we teach, and when we teach. Learners want options for teacher styles, curriculum content and organizational structure. There is a growing desire for self-reliance, self-confidence and self-help. Public policy, rules, and regulations will have to change to accommodate these ideas.

Governor Rudy Perpich and the Minnesota Legislature responded. The Postsecondary Enrollment Options Act was passed in 1985. This act was part of an Open Enrollment Plan proposed by our Governor which would have enabled parents to send their children to any school regardless of district boundaries. While the complete vision was not passed, an important component was enacted. That component enables 11th and 12th grade students to enroll in courses and programs at eligible postsecondary institutions. This new option provides access to an increased array of courses and programs, as well as promoting rigorous educational pursuits for our students. Secondary students can enroll full- or part-time, without cost to them, in any public postsecondary institution or in private institutions which are four-year, liberal arts degree-granting institutions located in Minnesota. It will be possible for very ambitious and/or talented students to complete up to two years of college by the time they graduate from high school. Admission decisions are made by the postsecondary institutions. The Minnesota Department of Education is working in consultation with postsecondary education to implement this program.

This Postsecondary Enrollment Options Act, which has "parent/ student choice" as the primary decision makers, is an important step in the educational restructuring process. It utilizes the current resources of our postsecondary system to expand the opportunities for secondary students without increased cost. This is an example of the type of social system reform being demanded by the various publics - getting more out of what we already have, rather than adding to our current system. Approximately 1500 of the 120,000 juniors and seniors (slightly over 1 percent) in Minnesota are participating in this program this fall. This number is expected to increase during the year.

This program has many positive aspects, including:

1. It significantly amends the course offerings in every high school in the state by including the postsecondary courses without increasing cost.

2. It provides increased opportunities for students who have exhausted the high school offerings without mandating any new programs.

3. It increases the option of students to participate in rigorous educational programs without creating a new institution.

4. It has initiated the critical dialogue between our secondary and postsecondary education systems.

5. It enables students to try a postsecondary experience. Students who may otherwise not participate in a college or vocational program now may decide that such a program should be pursued. The result will be a better educated citizenry.

6. The competition between secondary and postsecondary schools will increase, creating an awareness of student goals and/or interests and stimulating increased quality in both systems.

7. It will reduce, somewhat, the financial burden of postsecondary education on our families.

This new program is not without its drawbacks. Some students do not have convenient access to a postsecondary school. Secondary and postsecondary schools have different schedules. The high school may have difficulty planning for staff and space allocations. There is overlap between high school and postsecondary programs. Not all postsecondary programs are rigorous. The dual credit system can create 18-year old college juniors. Ultimate responsibility for the student's education - the school district or the postsecondary institution - is questioned. While these problems need to be addressed, these are matters which innovative education managers will be able to successfully solve.

This legislation raises a number of substantive issues which we are beginning to address at this time. Those include:

1. How can the high schools and the postsecondary schools cooperate to provide a continuum of programs and services?

2. Because the student is being served by "two systems," how can we assure that the needed counseling services are provided to help students and parents make appropriate choices?

3. Because the high school has reduced financial resources with which to work, how are appropriate programs assured for students not enrolling in this program?

4. Since postsecondary programs are not always immediately accessible to all students, how can various models be used to assure equal access?

Some of these issues are substantive and will be resolved through policy modifications. Others are logistical and will be resolved through management ingenuity. I am confident, however, that the benefits of this program are of such a magnitude that the public will demand resolution to any problems.

The key question often raised is, "Does parent/student choice make any difference in terms of student growth?" The research of Goodlad, Reywid, McCurdy and others clearly demonstrates that "choice" has a positive impact on students, parents and teachers. When provided choices, students from the neediest to the most outstanding seem to produce significant growth and achievement in cognitive, social and affective domains. Parents express greater satisfaction with their schools and become more involved.

Choice is a powerful idea which will change the social system of education. We believe that choice can expand opportunities, and bring about better achievement, better attitudes, and a better education for every student.

RER/RJW:mh116-3
10/18/85

TESTIMONY
OF
DENNY M. MILLER

EDUCATIONAL CLINICS, INC.
SEATTLE, WASHINGTON

I appreciate this opportunity to testify before the Senate Subcommittee on Intergovernmental Relations on private sector alternatives in education.

Our country faces a number of difficult challenges in education policy. A recent report by the Northeast/ Midwest Institute concluded that one out of five American adults is functionally illiterate. One perfectly reasonable response to evidence like this has been the efforts of the excellence-in-education movement to stiffen requirements for graduation, increase competency in basic skills, and tighten discipline in the classroom. At the same time, however, we are confronting a disturbing increase in the dropout rate.

Exclusive emphasis on making elementary and secondary education more rigorous may exacerbate the dropout problem by increasing the number of young people who cannot cope with school. We must look for innovative new approaches to the dropout problem as well. If we don't, we may create, to paraphrase the Kerner Report, "two Americas, one educated and one illiterate, separate and unequal."

The number of students leaving school before graduation has been growing at an alarming rate in the last few years. At least 25 percent of the young people in our country who begin the ninth grade do not graduate from high school; in some urban areas, a majority of students drop out before graduation.

Dropouts inflict a very high cost on our society. In Washington state, they constitute about 50 percent of AFDC recipients and 70 percent of our prison inmates. They pay less taxes and are more likely to require remedial training when they are employed. Perhaps the greatest loss to our society, however, is the waste of human talent and energy when young people stop believing in themselves.

There is no question that our public schools can do more to develop specialized programs for dropouts and potential dropouts. The fact remains, however, that the very system which students reject by dropping out---or which rejects them by driving them out---is unlikely to provide all of these dropout youth with the services they need to make them productive citizens.

A public school system cannot be all things to all young people, certainly not at a cost we can reasonably afford. We need to employ additional institutions outside the public school system to adequately address the dropout problem. We need a system of institutions which specialize in addressing the full range of needs and problems of young people who have not been able to function in a public school environment.

Fortunately, the concepts of choice and private sector involvement in education can be as useful in addressing the dropout problem as they can be in promoting educational excellence for those who stay in school. In Washington state, we have developed what we believe is an exciting, cost-effective, and very successful alternative approach to the dropout problem. In 1974, Educational Clinics, Inc. (ECI) opened its first "educational clinic" for dropout youth in Everett, Washington. In 1977, the Washington state legislature, using ECI's clinic concept as a model, enacted landmark legislation which authorized the use of state funding to pay tuition fees for eligible students at private educational clinics. Governor Deukmejian of California recently signed into law an educational clinics bill based on the Washington statute. Education leaders in Minnesota and other states have shown an interest in the educational clinics concept as well.

Educational clinics are special-purpose private schools which offer instruction in basic academic skills and employment orientation, along with counseling to motivate their students and help them solve personal problems. The program is called a clinic because it follows an individualized procedure analogous to that of a medical clinic: diagnosis, prescription, treatment and evaluation. The clinic is a performance-based system of education where the length of stay varies with each individual, depending on the student's ability and rate of progress. We emphasize small class size and individualized instruction.

ECI is a private, for-profit enterprise. As such, our approach is market-oriented, an orientation which is apropriate for dropouts who can choose, as in the marketplace, to return to school, to stay on the streets, or to attend an educational clinic. The market approach is also reflected in our willingness to accept reimbursement on an hourly basis; in other words, we don't get paid unless the student voluntarily chooses to attend classes. We believe there is a market for educational services directed at dropouts and that private enterprise is uniquely suited to serve that market.

We have conducted intensive follow-up studies on our graduates over the years. We have learned that more than two-thirds of our former students were still engaged in constructive activities (employment, education, training, or military service) 2 1/2 years after leaving the clinic program. The results after five years were even more positive. An outside study conducted in 1982 determined that for every dollar the state government expended for ECI services to a student, there was a $1.10 return to the government each year in social program cost savings and tax contributions.

My personal interest in ECI stems from my sixteen years of service with the late Senator Henry M. Jackson. Senator Jackson's sister, Gertrude, spent 42 years as a teacher in the Everett, Washington public school system. After her death, Senator Jackson established the Gertrude Jackson Memorial Fund in her honor, and contributed all of his honoraria to that fund. He authorized the use of some of those funds for scholarships for ECI students. He always took a special interest in ECI and, on two occasions, spoke at their graduation ceremonies. I learned from him about the invaluable opportunity ECI provides these young people to put their lives in order.

It is an unfortunate fact that the educational "choice" many dropouts face is not between public and private schools or different approaches to traditional education. Rather, the choice they face is between an individualized program that reverses their histories of educational failure, and life on the streets where further educational progress is beyond their reach. Alternative learning programs like educational clinics may be the only chance these young people have to become productive citizens in our society.

Educational clinics cannot supply all the answers to the dropout problem, but they can supply some of them. They illustrate the value of a private enterprise approach to dropouts---for-profit institutions, free choice by students, progress based on performance, payment only for classes that students willingly attend, and training and counseling geared to the individual needs of each student.

The federal and state governments have essential roles to play in developing educational alternatives. They can help to promote research and development of new approaches in education and provide financial assistance to some of the most promising alternatives. The Dropout Prevention and Re-Entry Act, introduced by Senator Specter and Congressman Hayes, is a good example of what the federal government can do to help address the dropout problem. The private sector, however, can work in partnership with governments and the public schools to initiate new approaches and see what works.

We have seen our system work. We are pleased by the interest shown in our approach by educators and public officials throughout the country. We appreciate this opportunity to share with you some of what we have learned about how alternative private-sector educational approaches can help solve this tragic problem of teenage dropouts.

Thank you.

Senator Durenberger. Our third panel is composed of two experts who have expressed a variety of concerns about the policy of options that we are discussing today. We have asked the witnesses to address the disadvantages of alternative education programs so we can understand the full picture. Our first panelist is the Honorable Wiley F. Mitchell, Jr., Virginia State senator. He has had a long, distinguished public service career. He has served on the Alexandria City Council and was vice mayor of the city of Alexandria. He was a member of the President's Panel on Financing Elementary and Secondary Education. With Senator Mitchell is Ms. Roxanne Bradshaw, the secretary-treasurer of the National Education Association of Washington, DC. She is also professor of anthropology at Pikes Peak College in Colorado Springs, CO. I want to express my appreciation to you for your patience and your willingness to participate in the first of our hearings. Your statements will be made part of the record. You are welcome to amplify on them as time goes on and to participate in any way in the process of dealing with some of the problems that we presented at the outset. If you will begin in the order you were introduced, let Senator Mitchell proceed.

TESTIMONY OF HON. WILEY F. MITCHELL, JR., VIRGINIA STATE SENATE, RICHMOND, VA; AND ROXANNE BRADSHAW, SECRETARY-TREASURER, NATIONAL EDUCATION ASSOCIATION, WASHINGTON, DC

Mr. Mitchell. Thank you, Senator.

I should comment at the outset that I'm a product of a public school environment in North Carolina. My mother and my father were both teachers in the public school system. My mother wound up with a career as a high school english teacher and my father was superintendent of a county school system in North Carolina.

I have a daughter who is currently a teacher. So my interest in public education transcends the legislative interest. I was in college back in the early 1950's when the Supreme Court of the United States decided in *Brown* v. *the Board of Education*, and the words "freedom of choice" perhaps take on a somewhat different connocation to a southern lawyer who grew up in the 1950's and 1960's than they do to others who grew up in a different environment. Freedom of choice was the legislative and political response to *Brown* v. *the Board of Education*, and the legal encumbrances which burdened that doctrine in the 1950's and 1960's and which ultimately led to its demise are the same encumbrances which burden it now with respect to much of the public educational sector in Virginia and in other Southern States, and, I suggest, in much of the rest of the Nation, too.

As you pointed out, Mr. Chairman, I had the privilege of serving as a Presidential appointee on the Advisory Committee To Study the Financing of Elementary and Secondary Education. That committee had 11 members. The committee made a number of recommendations to Congress. You may recall that the committee was the product of the 1981 Education Act, which directed the Advisory Committee to study financing of education and to make recommendations to the Congress literally with respect to whether Federal aid to education should be continued, and if so, in what form it should be continued.

We looked at a variety of issues, including tuition tax credits and the voucher system. We looked at the Department of Education, and we looked at Federal intrusion into local control of educational decisions. There was substantial unanimity on the panel with respect to the desirability of relaxing Federal control over and intrusion into local educational decisions.

There was no unanimity on the panel with respect to the use of education vouchers, nor the tuition tax credit, and it is on that point that my statement, which I will not try to read to the Chair, is directed.

Mr. Chairman, if we were to talk about tuition tax credits and the voucher system as a means of financing 100 percent of the cost of private education, we could provide a meaningful choice, and assuming we did not have any legal problems with that choice, we would, I think, be in a position to provide most Americans with the kind of choice the committee is considering.

But the tuition voucher system which is being considered is not some abstract idea. It is a specific proposal, and as I understand it, the idea is to take the money that we now appropriate to economically disadvantaged children under chapter I, and transfer that money in some way to fund educational vouchers.

Now, there are two ways you can do that. One is to make the educational vouchers available to all of the approximately 11 million children who are eligible to receive them now under the Chapter I Program, in which case, each student would get somewhere between $150 and $200 annually. To expect children who depend on public schools to provide them with breakfasts and lunches and free textbooks to come up with the funds necessary to finance the difference between the $150 to $200 they would receive as a voucher and the actual costs of a private school tuition ignores reality. If you take the next step and say, "No, we are not going to give these choices just to low-income children; we are going to take this money from chapter I and spread it across the entire universe of public school students," the amount that each student would receive is negligible and the result would be a subsidy to a few parents who have their children in private schools now, with no other real change—and no choice whatever for most students.

You might make it possible for a very limited number of middle-income parents who currently have their children in public schools to move to the private schools, but you would not move one low-income student from a public school environment to a private school environment.

In the process, you would do great damage to a program which, according to every single study we have done and all of the information available to the advisory committee, is working and working well. No Federal program with which I am familiar at the local level has ever received such universal acclaim for its effectiveness as the Chapter I Program, and that is not just my opinion. I have talked to local public school superintendents, to administrators, to teachers, to those in the trenches who are charged with administering this program. It is working; the money is going where it ought to go.

To take that money and move it into an unproved tuition credit or tuition supplement for low-income students would represent nothing more than a worthless piece of paper to most them.

I strongly support the idea that I have heard discussed here today. I like the idea of parents being able to participate in curriculum decisions. What is happening in your home State is a model, I think, for some of the things that we can do with imagination.

But to talk about the voucher system as a means for solving educational problems in this country, either legally or practically, and I will use this term, because when I sat down next to the lady next to me today, I said, when I read what you had to say about tuition vouchers, you would have thought we collaborated, because my statement and the statement of the NEA on this subject are precisely the same. It is a cruel hoax.

Thank you, Mr. Chairman.

Senator **Durenberger**. Thank you very much.

Ms. Bradshaw.

Ms. **Bradshaw**. Thank you very much, Chairman Durenberger. It is nice to be here today and nice to see you again.

I am the secretary-treasurer of the NEA. We represent more than 1.7 million members in the public schools who are teachers, education support personnel, and higher education faculty, of which I am one.

I am pleased today to have this opportunity to present NEA's view on the issue that is brought forth by the title "parental choice" and which more aptly might be called the movement for "parental chance." NEA recognizes that the focus of today's hearing has been on several educational alternatives such as magnet schools, open enrollment or "second chance," as the one in my own home State of Colorado is called. These alternatives are being discussed as vehicles for propelling "choice" into center stage within the public debate over education.

Today, however, we are choosing to focus our comments on educational vouchers. Before I move into that, I would just like to add a couple of comments, a couple of plugs for public education.

Earlier in today's hearing, mention was made of the decline in test scores. I would like to point out that, in fact, the ACT scores and the SAT scores this year have shown a marked improvement. I think that should be noted for the record.

I also think that when comparisons of test scores are made, quite often current scores are compared with scores from the early 1960's.

If you are aware of the pattern of testing in the early 1960's, you know that only those students who were in the top percentages of their classes, in most of the high schools, were the ones who were allowed to take those tests. We now open up that testing to all of the college-bound students who are in their senior year, and upon request, to some in their junior year. So, to compare scores taken in 1960 and those in 1980 is not accurate.

I would like to move on to address educational vouchers, because at the Federal level, it is clear, they are the prime means by which the current administration is promoting the concept of parental choice. We view vouchers as counterproductive to attaining quality education for all, and as a threat to the future of public education.

Under the mantle of parental choice lies the not-too-appealing specter of the return to what was just mentioned by Senator Mitchell, segregated schools, the undermining of the constitutional guarantee of separation between church and state, and the decline and the eventual demise of our system of universal, publicly funded education. Today, it is the voucher plan that is on the table. In prior years, the call was for tuition tax credits. Although the "choice" rhetoric may be new, the form is not. These proposals have most often centered around mechanisms which would channel public funding to private schools.

NEA's position on this is clear: We remain unalterably opposed to any plan that would transfer public moneys to private education, whether it be through vouchers or tuition tax credits.

And we view with great skepticism the plans that supposedly offer parents greater choice while diverting the public choice from the most critical issue of the day—adequate funding for high quality public education for every child in this Nation.

Schemes that aid privatization of the schools do little or nothing to promote the welfare of the majority of our children. Having failed to generate widespread support for its tuition tax credit proposal in its first term, this administration has set out to emphasize the alleged benefits of vouchers to minorities and to the poor. The reality, though, is that voucher plans simply will not open the doors of opportunities to the disadvantaged. The President has reiterated his desire to expand parental choice in elementary and secondary choice through the use of vouchers for the Chapter I Program. In his view, choice would foster greater diversity and higher standards throughout our system of education.

However, a closer look at the highly successful Chapter I Programs reveals the emptiness of this assertion.

We note that, for example, only 45 percent of the 11 million disadvantaged children eligible for Chapter I Programs now receive such services.

Moreover, some 700,000 youngsters have been dropped from the program since 1980, and the administration has indicated its plans to freeze the program at fiscal year 1985 levels. In light of those statistics, carving a voucher program out of an underfunded Chapter I Program could hardly be called choice. In fact, what vouchers are is the illusion of choice with the reality of high stakes risk for the disadvantaged.

Parental choice is a popular political phrase which may appear to be an agreeable concept, but which in fact offers few guarantees. Vouchers in and of themselves will not produce quality education. Mr. Chairman, NEA believes that what proponents of vouchers really offer is false advertising in education reform.

We encourage you to give serious consideration to all of the plans that are laid before you, all of the information that is shared here, and to look at the side of the issue that we have presented to you today.

I thank you so much for the opportunity to share these remarks with you.

Senator **DURENBERGER**. Thank you very much.

Ms. **BRADSHAW**. I would be glad to repond to questions if you feel that you want to take your time.

Senator **DURENBERGER**. I feel what we will have to do is keep both of you on the hook, if you are willing and, expand the number of witnesses who will contribute to this subcommittee's hearings.

This whole process, I assume, began when the Federal Government became more involved in the financing of local delivery of public services. It could continue until a generation from now, when we have changed substantially how the National Government carries out its obligation to provide quality educational opportunities for everyone.

So, I appreciate everyone's coming here today and identifying some of the problems that are before us. Perhaps we don't do a very good job of solving them. I felt that way as we approached tuition tax credits in the Finance Committee over the last 4 or 5 years.

People said, "There is nothing really wrong with tuition tax credits," just as Senator Mitchell said there is nothing wrong with the concept of a voucher.

But, when you take tuition tax credits and say: "We are not going to have any more than $1 billion in revenue forgone," well, why bother? Because you are not really providing a choice, except for a few people who already have a choice and would then take advantage of the tax break.

But, regardless, because I believe in the concept of choice, and I also believe that the income tax system is a way in which people buy certain needs, I supported the concept of credits and their extension.

By the same token, I imagine I will support, as Senator Mitchell and others have discussed in their statements, the concept of a voucher system. But I am inclined to agree with him: We might want to limit vouchers to a very small area and a small amount of money. I am not sure whether I am facilitating a choice in that process.

The search, as far as this subcommittee is concerned, is not for the passage of tuition tax credits, vouchers, or any specific Federal program. It is to try to provide advice to other committees in the

Senate about the most appropriate role for the National Government—its spending policies, its mandates, all the things that involve parents and others in the selection and delivery of educational services in this country.

That will be the search of the committee. Some opportunities are being opened up for us, by fiscal pressures, to find improved ways to finance the delivery of educational services. How do we find the most appropriate opportunities for the national government? That will be our role. And I, as the Chair of the subcommittee, come from a State which usually experiments with these things before anyone else does and which has the Joe Nathans and the Dave Bennetts. And other folks in our society from other places come to Minnesota because of what we do. I might be more of an explorer in this area then some of my colleagues who have the direct responsibility in the education area.

For that reason, I hope that each of you and the associations which you represent will reappear before this subcommittee with the spirit you brought to this first set of hearings. I hope you will help guide this process as we proceed through other hearings. I thank you, both, for your statements. And with your testimony.

Ms. **Bradshaw**. Thank you.

[The prepared statements of Senator Mitchell and Ms. Bradshaw follow:]

Statement of Virginia State Senator Wiley F. Mitchell, Jr. before the United States Senate Subcommittee on Intergovernmental Relations - October 22, 1985

Tuition vouchers, as a method of providing meaningful educational choices to America's most economically disadvantaged students, are a cruel hoax. Unless tuition vouchers are sufficiently large to pay all, or substantially all, of the cost of private school tuition (an unlikely contingency in view of the astronomical cost) they will be largely worthless in the hands of most of the nation's neediest students, few of whom can realistically be expected to come up with the difference between the amount of the voucher and the cost of private school tuition. Moreover, even if the tuition barrier could somehow be overcome, the benefit would accrue disproportionately to the urban areas of the Northeast and North Central regions of the country, where most of the private schools are concentrated. The South has by far the largest concentration of low income students, for example, but private schools in that region serve only 9% of the students, and at tuition levels which are generally much higher than in the North. The opportunity for rural students anywhere in the country to attend private schools is only one-third that of their urban counterparts.

If tuition vouchers are to be funded by dismantling Chapter I of the Federal Education Act of 1981, the proposal becomes even more preposterous. I served as one of President Reagan's appointees to the Advisory Panel on Financing Elementary and Secondary Education and was the author of the Panel's minority report. As noted in that report, every major study of the Chapter I program indicates that it reaches its intended beneficiaries (low income, low achieving students) and that it successfully provides the conpensatory services contemplated by Chapter I without imposing unrealistic regulatory burdens on local school districts. If Chapter I funds are to be redirected to fund tuition grants for economically disadvantaged students, the simple process of dividing current Chapter I appropriations by the number of eligible recipients would suggest an average grant award of about $250-$300 per recipient. Such amounts are clearly inadequate to pay tuition costs at even the least expensive private schools and in view of the inability of most low income recipients to fund the difference in cost, the change from Chapter I block grants to individual tuition vouchers would have little effect on the ability of low income beneficiaries to make meaningful educational choices. In effect, we would be destroying a good program of proven educational worth in favor of a highly questionable program which, even under the most favorable assumptions, would provide limited benefits to those intended to be served.

The use of current Chapter I appropriations to make tuition vouchers available to all students, without regard to economic need, will effectively transfer hundreds of millions of dollars from public to private education, with limited benefit to the quality of private schools and a devastating impact on public schools. Obviously, making the limited Chapter I funds available to all students on a pro rata basis would reduce individual grants to nominal amounts. Individually, the few dollars available to each student might provide some limited relief to upper and middle income families who currently have children in private schools and might, in a few cases, tip the balance in favor of moving a middle income student from a public school to a private school. The individual grants would not be sufficiently large, however, to permit the transfer of low income students to private schools. Most low income students would therefore lose the benefits currently provided by Chapter I appropriations in return for what to them would be a worthless piece of paper.

I have one final comment on the advisability of universal tuition vouchers, freely available to all students without regard to economic need. Such vouchers are not unlike the tuition assistance grants used by Virginia and many other states to encourage resident students to attend in-state private colleges, and thus to relieve the enrollment pressures on the less expensive public institutions. The annual grants were begun several years ago and have been periodically increased. Almost without exception, however, every increase in the amount of the grant, has been matched at least dollar for dollar by concomitant increases in private college tuition. There is little reason to think the same thing would not occur with respect to tuition grants to elementary and secondary students.

Finally, those who advocate the use of tuition vouchers contemplate that each child who receives a tuition voucher would be free to choose any public or private school in his or her district. Even if we make a quantum leap over reality and assume that private schools would be willing to accept all who apply without requiring additional tuition payments, it is difficult to imagine the administrative, financial, and legal chaos such a system would impose upon the public schools. Legally required desegregation plans would be placed in jeopardy. Budgeting, staffing, and facility utilization would be thrown in turmoil. Curriculum planning would be disrupted, and the ability of local public school systems to make the most effective use of their facilities and personnel would be all but destroyed.

In short, the voucher system, even if funded at a level sufficient to permit every child to pay the full cost of attending any school in his or her district, would produce administrative and financial chaos which could seriously threaten the stability of the public schools. Without vastly increased federal funding at levels far beyond current Chapter I appropriations, adoption of the voucher system as a substitute for Chapter I funding would seriously harm the very low income students it is intended to benefit.

LEGISLATIVE INFORMATION

TESTIMONY OF THE
NATIONAL EDUCATION ASSOCIATION
ON
VOUCHERS

BEFORE THE
GOVERNMENTAL AFFAIRS SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
UNITED STATES SENATE

PRESENTED BY
ROXANNE BRADSHAW
NEA SECRETARY-TREASURER
OCTOBER 22, 1985

MARY HATWOOD FUTRELL, President • KEITH GEIGER, Vice President • ROXANNE E. BRADSHAW, Secretary-Treasurer
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Mr. Chairman and Members of the Subcommittee:

I am Roxanne Bradshaw, Secretary-Treasurer of the 1.7 million member National Education Association. The NEA represents public school teachers, educational support personnel, and higher education faculty in each of these United States. I am pleased today to have this opportunity to present the NEA's views on such a timely topic as ''choice'' in our schools.

Much of the discussion of this matter in the past has revolved around mechanisms to channel public funding to private schools. NEA's position on this is clear: we remain unalterably opposed to any plan -- whether it be through vouchers or tuition tax credits -- which would transfer public monies to private schools. We believe that in the long run, such plans are bad public policy, bad education policy, bad economic policy, and can only serve to harm our public schools and the children they serve.

Vouchers: One Approach to Choice

As you know, Mr. Chairman and Members of the Subcommittee, education vouchers are much in the news these days. They are seen by many as the foundation on which ''choice'' in the schools will be built. In a federal voucher system, for example, education dollars would be diverted from their normal state and local education agency route. Instead, they would go directly to parents in the form of vouchers or certificates which they could in turn ''spend'' at the school, public or nonpublic, of their choice as payment for their children's education.

While currently in vogue, education vouchers are, in fact, an old issue. Educational vouchers have been advanced by free market proponents since the 18th century. Proponents have asserted that they would fuel competition and create an open market that, theoretically, would improve schools or eliminate those that are inferior.

Over the years, the voucher has been promoted as a means of equalizing educational opportunity or promoting parental choice, reforming school finance, facilitating as well as fighting desegregation, and improving education for low income and minority children.

In the fifties, for instance, vouchers became a means to maintain segregation after Brown v. Board of Education. Some Southern states enacted vouchers, which were ruled unconstitutional. Since the sixties, vouchers have been advanced as a way to benefit private and parochial education.

Today, the voucher is being advanced as a school reform issue by those who believe that a free marketplace will correct all education ills. They argue paternalistically that vouchers will be a liberating element for all parents -- minority parents in particular -- who may be frustrated by what they perceive as the inferior education which their offspring are receiving. The voucher, its proponents believe, would enable parents to buy a better education for their children.

Education will not be improved nor opportunities enhanced by such voucher schemes. Indeed, NEA opposes the use of vouchers in education in substitution for any existing programs because they:

- could lead to racial, economic, and social isolation of children;
- could undermine public support and funding for public schools, ultimately weakening or destroying them;
- could be an administrative nightmare, siphoning much needed resources from classroom activities to bureaucratic practices;
- would be an inappopriate and unneccesary allocation of public resources;
- would be bad public policy; and,
- could potentially violate the separation of church and state.

Public Scrutiny: Contemporary Concern over Vouchers

Preserving public accountability of the education system is one of the key issues that must be adequately addressed within the voucher debate. This issue is taken up in the recently published New World Foundation book, ''Choosing Equality: The Case for Democratic Schooling.''

> ''Under the current system of financing schools, we resolve tensions between public and private interests by pursuing pluralistic goals through public decision making in the public sector and by allowing individualistic goals to be pursued in the privately funded and operated private sector. Private control over the public interest has been avoided over the course of this nation's history by linking accountability for the pursuit of public goals to public funding institutions. Public funding of the private sector without the public accountability that accompanies pluralistic decision making is unlikely to occur. Where problems have occurred because public accountability mechanisms have overreached their capacity for achieving positive results, the solutions will not be found by extending those mechanisms to the private sector or by seeking to avoid the public sector -- and its problems -- through a voucherized escape hatch. The public interest must be served. We must seek to find

> ways to serve it better while balancing its pursuit with responsiveness to individual needs.''

Vouchers would undermine public accountability of our schools. Attempts to redress this by creating public oversight of private schools is simply not an acceptable alternative for private school advocates.

Past Federal Experiment with Vouchers Not Conclusive

The dangers and difficulties inherent in voucher approaches have meant that there have been extremely few instances where they have been implemented. The lone federal use of vouchers was an experiment during the early 1970's at the Alum Rock School District in San Jose, California. The voucher program was funded by the then Office of Economic Opportunity. The community did not acquire a lasting voucher program, but it did get a $9 million infusion of federal funds and a decentralized school system.

The results of the experiment were neither successful nor conclusive. Only one-third of the district was involved in the voucher project. Parents chose from among school programs, not from competing schools. Private and parochial schools were excluded. And the future of the project was clearly dependent upon the continual infusion of federal dollars. One key factor the project did reveal was that even with the provision of transportation, geographic location was the single most important factor in parental placement decisions. Curriculum factors seemed less important than noninstructional factors in determining parental choice of schools.

State Voucher Initiatives Limited

The voucher issue was placed on the ballot in Michigan in 1978 and was defeated. In 1979, California voucher proponents attempted and failed to place the issue on the state ballot. In early 1985, however, state interest on the issue picked up as proposals materialized in two legislatures. But it is interesting to note that there has been no stampede to adopt broad voucher plans; recent state proposals have been limited in range. Only one, Colorado, has adopted a voucher program.

A 1984 attempt to put a voucher plan on the Colorado state ballot was unsuccessful. In January 1985, a ''Second Chance Program'' was proposed by the Governor to enable academically deficient student -- truants, dropouts, teen parents, and drug abusers -- to select any private or public school. The measure was defeated in the Senate Education Committee. In late May 1985, the Colorado Legislature approved a watered down version of ''Second Chance'' -- the first of its kind in the country -- as part of an omnibus education reform package. Under the plan, students who have dropped out of school for at least six months may re-enroll at another participating school or school system. The transfer must be approved by the student's parents, the school from which the student departed, and the receiving school. School districts must apply to the state education department to participate. Upon approval, 85 percent of the state funding for the student will be transferred to the receiving school. The rest of the state money is divided between the sending school district district and the state department of education to cover administrative expenses. The plan remains controversial and, in part, its support came from those who did not want to lose the other elements of the reform package.

Vouchers: The ''Choice'' Connection

It is clear from current Administration efforts that there is a concerted campaign to emphasize the alleged benefits of vouchers to minorities and to the poor. This factor is noted in particular since the Administration's unsuccessful tuition tax credit proposals during the first term had come under such fire for being exclusive, and directed at the rich and middle class. Clearly, voucher advocates wish to press this ''populist'' appeal of the choice movement. The Reagan Administration itself is giving a higher priority to its seemingly more popular and palatable voucher plan after having failed to generate widespread support for its tuition tax credit proposals. The reality, however, is that modest voucher payments simply will not open the doors of opportunity to the disadvantaged.

Vouchers: The Legal Side of the Question

Voucher proposals raise three major legal issues related to racial segregation, separation of church and state, and state regulation of educational quality and equality.

- In the past, voucher plans have been ruled unconstitutional due to their impact on desegregation. Their potential for resegregation is very real.

- Additionally, vouchers, when extended to private schools, have the potential of subsidizing religious organizations, thus violating the First Amendment doctrine of separation of church and state.

• On a state level, vouchers present yet another potential problem. States have the right to set minimum academic standards for public schools and, in some instances, to regulate and set standards for nonpublic schools. At issue would be how that role would or should be played out in a voucher system. But also in question would be the state's adherence to statutes that mandate uniform school systems and equal access.

Vouchers: The Reagan Administration Plan

Early in 1983, the Reagan Administration proposed that states be given the opportunity to use federal funds for vouchers under Chapter 1 of the Educational Consolidation and Improvement Act of 1981. Funds were to continue to be allocated under current law to educationally disadvantaged youth. Voucher amounts were to be determined by the amount of state or school district Chapter 1 funds for compensatory education programs and the number of children to be served. Under the proposal, the nation's poorest families would have received an average $500 voucher or as much as $1,900 in some cities to enable them to select the private or public school of their choice -- presumably the school would better meet the educational needs of the students. After a House Education and Labor Committee hearing, the legislative proposal was shelved.

As you know, Mr. Chairman, vouchers resurfaced in the President's 1985 budget message. Few details were offered on the substance of the proposal. But in the first education speech of his second term, President Reagan reiterated his desire to expand ''parental choice'' in elementary and secondary education through the use of Chapter 1 funds. In his words, the proposal would ''foster greater diversity and higher standards throughout our system of education.''

If the Administration's proposals for tuition tax credits and vouchers were to be adopted by the Congress, Secretary of Education William Bennett told the House Education and Labor Committee, they would increase private elementary and secondary school enrollment to 30 percent of the nation's student population. Currently, some 10 percent of that enrollment attends nonpublic schools. NEA believes that this shift in public school attendance, with its concomitant shift in funding, would have only detrimental effects on the public schools.

''Choice'' Through Vouchers as an Educational Reform Issue

Though the voucher proposal is hailed by its advocates as a major ingredient for the success of the ''choice'' issue, it is important to take a closer look at the federal program, Chapter 1 of the Elementary and Secondary Education Act, that would be most affected if such a proposal should become law. We note, for example, that only 45 percent of the 11 million disadvantaged children eligible for Chapter 1 programs now receive such services. Moreover, some 700,000 youngsters have been dropped from the program since 1980 and the Administration has indicated its plans to freese the program at Fiscal Year 1985 levels. In light of those statistics, carving a voucher program out of an underfunded Chapter 1 program could hardly be called ''choice.''

In fact, what vouchers offer is the illusion of choice with the reality of high stakes risks for the disadvantaged. The impact of a $500 voucher could be negligible in the current educational market where the public school average per pupil expenditure alone is $3,429 a year. Moreover, vouchers would not necessarily carry the same price tags given that school districts receive varying amounts of federal compensatory aid. There also is the important question of whether private schools would or could take the most economically disadvantaged children in this society. Proponents of vouchers seem to ignore many private schools' past practices limiting minority students enrollment and their inability to service those with special needs.

Advocates of vouchers offer many promises. For the nation's disadvantaged students, they may be empty promises.

There are those who visualize better and even new schools. How that would be realized on minimally funded vouchers is not clear.

Parental choice is a popular political phrase which is an agreeable concept, but it offers few guarantees. Vouchers, in and of themselves, will not produce quality education. There are no guarantees for improved student achievement or models for success. Yet, as in the past, proponents of vouchers are quick to volunteer disadvantaged youngsters for experiments that offer opportunities for putting them more at risk than they already are. And there are no money-back guarantees. As a nation, we would be far better served by providing sufficient resources to those programs which do work -- like Chapter 1 -- than risking the futures of hundreds of thousands of disadvantaged children.

Recent federal, state, and local studies show that Chapter 1 students do significantly better in school than those who do not participate in the program. The National Assessment of Educational Progress reports that reading scores of low-achieving youngsters have risen dramatically in the past decade and that these gains are attributable to compensatory education programs. What happens to an already successful Chapter 1 program? Will its target population be better served through a voucher program that shakes up the existing mechanisms that have generated those successes?

Aside from the legal implications, there is the matter of equal educational opportunity, a goal to which this nation rightfully has been committed for the past two decades. Does federal legislative mandate stop at the private school door? How does one accommodate equity through a voucher plan? One hears no promises on that front.

Vouchers Promise More Red Tape

What vouchers do promise is a morass of govermental regulations which its advocates purport to oppose. The public demand for school quality and accountability is high. A voucher program stemming from the federal government in a budget deficit era is bound to have a number of strings attached to it, if the market in which it is to occur is expanded from the public to include the private sector and the mobility of school children between schools is to be increased. No one knows what regulations might be forthcoming as a result of the various service delivery configurations that might emerge from such a system.

Conclusion

Mr. Chairman and Members of the Subcommittee, NEA believes that what proponents of vouchers really offer is false advertising in educational reform.

For all the rhetoric in which they are cloaked, vouchers are a cruel hoax on America's schoolage children and their parents. Disguised as educational reform and parental ``choice,'' vouchers are really a matter of ''chance'' and a diversionary tactic to shift the public focus from the most critical issue of the day—adequate funding for high quality public education for every child in this nation.

We therefore urge you to carefully review the impact of such a proposal and its ultimate effect on the health and well-being of one of America's most important democratic instutitutions -- its public schools.

Thank you.

Senator DURENBERGER. The hearing will now be adjourned.

[Whereupon, at 4:20 p.m., the subcommittee recessed, to reconvene subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PUBLIC, PRIVATE AND EFFECTIVE SCHOOLS

Testimony before the Subcommittee
on Intergovernmental Relations
United States Senate
October 22, 1985

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What do we really know about the sources of ineffectiveness and poor performance in American schools today? And, what can we do with reasonable confidence to turn that performance around?

Social scientists have developed essentially two perspectives on these questions. One--associated with so-called "effective schools" research--is that school performance hinges on various aspects of school organization and pedagogical practice. This view suggests--on the strength of countless case studies of successful and unsuccessful schools--that school performance can be improved by such familiar reforms as increased graduation and homework requirements, performance incentive systems for teachers, enhanced instructional leadership roles for principals, tougher discipline and more orderly learning environments, and stronger school commitments to academic subjects or "the basics." The other perspective--associated with comparative analyses of public and private schools--argues that the sources of school performance may lie as much outside of the school as inside, in the nature of the school environment--specifically, in whether it is a competitive market or a political hierarchy. It is this approach to school performance that tells us that comparable students achieve far more in private schools than in public, and that recommends pro-competitive and pro-choice reforms such as tuition vouchers and magnet schools.

Each of these perspectives offers important insights into school performance, but neither provides a sound basis for understanding how schools might be improved. Effective schools research has provided us with a veritable laundry list of factors found in better schools, but hardly a hint of what factors might be most important, and no explanation whatsoever of when those factors happen to be found. Public-private analysis has provided persuasive evidence that private schools, on average, out-perform public schools, but has failed to explain why that it is--whether it is due to economic competition or to qualities that are also found in the better public schools. Both approaches have failed, in short, to establish firmly cause and effect, to link together the school environment, the school organization, and in turn, the operation and performance of the school. Until this is done, enthusiasm for school reform should be tempered with healthy skepticism. This warning applies to the more conventional proposals to work within the existing institutions of public education as well as to the more radical proposals to infuse those institutions with competition and choice.

It also applies to our work--though in time, we hope with much less force. In our research, the initial results of which are reported in a paper submitted for the record, we try to overcome the "cause-and-effect" problem by integrating the leading perspectives on school performance: we compare public and private schools in order to get a complete picture of how the parental and official pressures outside of schools can vary, and we analyze school organization and operation to understand how these things are affected from the outside, and how they in turn affect student achievement. At this juncture we have worked only on the relationship between school environment and school organization, and shall report only on those findings and their implications. But the results are perfectly consistent with, and provide a plausible explanation for, research indicating that private secondary schools out-perform public ones. In any case, special note should be taken of these findings because they are based on the best data set ever assembled on both school organization and performance, and on private education: a national sample of 500 schools, over 100 of which are private, and within each of which the principal, 30 teachers, and 30 students are surveyed, providing a grand total of over 25,000 respondents. (The survey, which we co-directed, is a follow-up to High School and Beyond, and was supported by the National Institute of Education.)

The environments of public and private schools differ in two major respects. First, official outside authorities—school boards, superintendents, central offices, etc.--exert greater influence over all areas of school business—curriculum, instruction, discipline, hiring and firing--in public schools than in private schools, notwithstanding the Catholic reputation for hierarchy. Second, parents are more involved and more supportive in private schools. Overall, the political environment in which public schools function imposes more demands and provides less discretion and flexibility than the market environment in which private schools function.

Inside the school these differences are manifest in telling ways. Public school principals are more likely to see their role as that of a middle manager in an administrative system or as a representative in a political system than as an instructional leader in an educational system. Teachers are less likely to view the public principal as a strong leader. The goals of public schools, which tend toward priorities such as literacy and good work habits, are less clear to teachers than are private school goals, which tend toward academic excellence and personal growth. Public schools have easier graduation requirements, more ambiguous disciplinary policies, and fewer school-wide homework policies. Given the diverse political interests that public schools must satisfy, these differences are understandable.

The personnel systems of the schools are also vastly different. Public schools, like all public agencies in this country, have elaborate employee protection systems, and often public unions, to protect teachers from the changing winds of politics. While tenure is universally offered in public schools, it is provided in only a minority of private schools. When it is offered in private schools, it is much tougher to earn than in public schools. Unions too are almost universal in public schools; only 10 per cent of the private schools have them. It should be no surprise then that public principals complain much more than their private counterparts about barriers to hiring and firing teachers. Nor should it be a complete surprise that public schools have fewer excellent teachers and more problems with teacher absenteeism. These differences have non-obvious consequences for teaching. Private principals, having better teachers over whom they have have more control, reward their teachers in a host of ways that are thought to encourage better teaching: they give them greater control over student behavior and discipline, curriculum, text selection, student grouping, homework, and even hiring and firing. In other words, they promote a team-line atmosphere rather than a hierarchical one. Private school teachers, it turns out, are more collegial and supportive of each others teaching. None of these differences are due, moreover, to the smaller size of private schools nor to the salaries that private employees earn: public teachers are significantly better paid.

We believe that the differences we have observed within public and private schools are substantially the result of fundamental differences outside of these schools. Because public schools are agencies of democratic governments, they have sharply different environments than private schools, which are not governed in any democratic sense at all. Public schools must serve whomever those governments require be served--namely, all geographically eligible children. Public schools must submit to whatever demands, constraints, and controls the people—not just parents—deem necessary for democratically accountable operation. And, public schools must accept protections from politically inspired firing and hiring for their employees. The result is that public schools have less agreeable parental, official, and labor environments.

This is a critical point to appreciate for school reform. Many of the differences we found in the organization and operation of schools are known to influence school effectiveness. To the extent that these aspects of the school are environmentally determined, there are two important lessons for school reform.

The first is that efforts to improve public schools by reforms within the existing institutions may be doomed to failure. Public schools have lax requirements, cautious leadership, low expectations, and unhappy teachers in part because of the political and bureaucratic situations in which they find themselves. The conditions within public schools cannot be permanently improved until the conditions outside, that shape public schools, are themselves changed. How long, for example, will the public accept tougher requirements if their price is higher dropout rates?

The second lesson is that more radical proposals to change schools from the outside—to inject choice and competition into them—will also fall short of expectations. The reason is that the bulk of such proposals manipulate only one aspect of the environment that distinguishes public and private schools: they encourage greater parental involvement in and support for public schools. To be sure, this may bring improvements to public education. Schools would be subject to fewer onerous and conflicting demands; they would probably develop a greater clarity of purpose; and their students would be better matched to their educational capacities. But important environmental constraints on public schools would remain. They would still be subject to the extensive controls of local, state and even federal government. They would still be staffed by teachers who are thoroughly protected by tenure systems and collective bargaining agreements. In sum, they would still have relatively little freedom to set their own goals, impose their own rules and requirements, choose their own staffs, and run their organizations according to their best professional judgements. Unless we are willing to alter radically the financing and governance of public schools, these are constraints that we must accept. But any changes that would free public schools substantially from the strictures of direct governing authorities or public employee protection systems would be radical indeed. They would eliminate democratic control of schools, as we have come to know it—obviously, a price of educational excellence that we may be unwilling to pay.

Politics, Markets, and the Organization of Schools

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The ongoing debate over the causes of school effectiveness has heated up considerably with the emergence of evidence that one of the main causes may be the sector in which a school resides—that is, whether it is public or private. Among comparable students with comparable backgrounds, it has been found that Catholic schools, and to a lesser extent other private schools, produce significantly greater gains in achievement than public schools. Coleman, Hoffer and Kilgore, who fueled the school effectiveness controversy with this conclusion in their seminal 1982 book, High School Achievement, estimated that the difference between Catholic and public school performance may be equivalent to as much as a full year of learning and the difference between other private and public performance perhaps half that. Although these inferences about achievement were challenged on many grounds (e.g., Goldberger and Cain, 1982), they have since withstood the test of additional data. The high school sophomores from the original study were retested during their senior year so that actual achievement could be measured, and their levels of improvement, analyzed in Hoffer, Greeley, and Coleman (1984), continue to show substantial sectoral effects. With the added weight these results derive from the huge survey upon which they are based—the "High School and Beyond" (HSB) longitudinal study of nearly 60,000 public and private students in more than 1000 schools—the work of Coleman and his associates has had a deservedly large influence on the search for the causes of effective schools.

The search nonetheless remains mostly before us. After a raft of analyses of the HSB data by Coleman and his associates as well as their critics, a fundamental question remains unanswered: If public and private schools differ in their effects on student achievement, what accounts for the difference? Is it a set of factors that varies inherently across the sectors? Or is it a set of factors that also explains variation in the performance of public schools? It is not enough to know t' t performance in the public and private sectors differs. If we are to understand the causes of effective schools, we must explain why performance differs. Unfortunately, existing HSB data do not provide much of an opportunity to do that. Those data provide unusually rich information about student achievement, activities, attitudes, and background, but only nominal information about the structure and operation of the schools. Principals were surveyed for data primarily available in school records, and teachers were queried only superficially. As a result, the HSB data virtually preclude serious investigation of school-based determinants of student performance.

To rectify this problem, we and several colleagues designed and directed an "Administrator and Teacher Survey" (ATS) of approximately 500 of the HSB schools, including almost all of the private schools, with questionnaires administered in each school to the principal, a guidance counselor, a vocational director, and 30 teachers (see Appendix A). The responses to that survey permit detailed descriptions of schools—their relationships with parents and outside authorities, their leadership, their organizational structure, their interpersonal relationships, and their educational environments and practices. When these data are merged with existing HSB data, they offer healthy prospects for explaining the differences in school performance that have been observed, but not understood. In this paper we take the essential first step toward that end by exploring the differences in the organization of public and private schools. Little that is systematic or reliable is known about the similarities and differences of schools in the two sectors. Yet, clearly that information is a prerequisite for understanding relative school performance. The Administrator and Teacher survey, with a national sample of schools, nearly 12,000 respondents, and organizational coverage from outside the school to inside the classroom, provides the first sound basis for comparisons of the nation's alternative school systems.

Such a comparison promises more, however, than a foundation for explaining why private schools may perform better than public schools. It should help explain school performance generally. One of the central issues addressed in our comparison of public and private schools is precisely the issue that research on school effectiveness (reviewed in Purkey and Smith, 1983) has tended to ignore. That is, what accounts for the success or failure of schools in developing the characteristics that are thought to enhance school performance? Research into school effectiveness has excelled in isolating factors associated with strong academic performance. But as important as it may be to know that factors such as strong instructional leadership, clear school goals, an academic school ethos, and high teacher expectations are found in effective schools, it is plainly not enough. All, or surely most, schools strive to be effective and have a reasonable idea of what it takes. But not all schools succeed, and variations in performance are great. The ultimate goal of school effectiveness research must be to understand why and how some schools develop the characteristics for effective performance while others do not. The general explanation explored in this paper is that the school environment exerts important and systematic influences over the development of the organizational characteristics necessary for success.

By comparing public and private schools we hope to show not only how those influences differ across sectors but how they may work more generally. To be sure, public and private schools exist in very different environments, the former characterized more by politics, hierarchy, and authority, and the latter more by markets, competition, and voluntarism. However, the differences these environments make for school organization may not be due entirely, or even primarily, to qualities that are inherently public or private. Rather, organizational differences may derive from environmental characteristics such as control, constraint, and complexity that differentiate school environments regardless of sector. The Administrator and Teacher Survey enables us to measure a number of these general environmental characteristics as well as a range of organizational attributes that research on effective schools has indicated are important to school performance. To the extent that the attributes of effectiveness are found in different amounts across the sectors, we have the basis for an organizational explanation of the differences in public and private sector performance found by Coleman and his associates. To the extent that the differences in public and private school environments can be described by dimensions characteritic of all school environments we will have much more. Namely, a foundation for an explanation of school effectiveness generally.

An Environmental Perspective on School Organization

While research on schools has unearthed a wealth of interesting information on topics that are surely relevant to an understanding of school performance, much of this work neither derives from not gives rise to a coherent view of the whole. Components of the education process are studied in isolation from one another, with full appreciation of their intricacies and special characteristics, but with little sustained attention to the larger question of how all these pieces fit together. It is fair to say that there has been a tendency to revel in complexity, to proceed as though our understanding increases in direct proportion to the number of relevant variables we can identify and include in the analysis. Researchers who simplify—for example, Coleman and his associates--are criticized for the host of factors they have left out (e.g., Murnane, 1982) rather than commended for the economy, clarity, and explanatory power their simple models have achieved. Although school performance is unquestionably a complicated issue fraught with subtleties, that is no justification for theoretical incoherence, for failing to see the forest for the trees. Our approach to the issue of school performance is decidedly focused on the big picture.

We begin with a general perspective on schools that emphasizes that the school is an organization. Much as any other organization, a school survives, grows, and adapts through constant exchange with an environment--comprised, in this case, of parents, administrators, politicians, demographic changes, socioeconomic conditions, and a range of other forces that variously generate support, opposition, stress, opportunities for choice, and demands for change. Internally, it has its own distinctive structures and processes, its own culture of norms, beliefs, and values, and its own technology for transforming inputs into outputs. The organization and its environment together constitute a system of behavior in which, as the saying goes, everything is related to everything else: the environment shapes the internal organization, the organization generates outputs, and outputs in turn have a variety of reciprocal effects on both the organization and its environment. The result over time is an iterative process of impact and adaptation.

It is impossible to capture all this richness in theory and research. It is undesirable as well. The key is to put this sort of organizational framework to use in simplified form, retaining only those elements most salient to the explanation. Ultimately, our focus is on the construction of two interrelated models. The first attempts to explain organizational characteristics, the second attempts to explain outputs. The organizational model allows for the impact of environment and outputs on school organization, as well as for reciprocal relationships among the organizational elements themselves. The output model understands important school products in terms of environmental and organizational influences. In this paper we report the results of our initial steps toward constructing the first of these two models, that is, the relationship between the school and its environment.

The school environment has for years been acknowledged as a powerful influence on the organization and operation of the school. Theoretical work on schools (e.g., Weick, 1976; Hanson, 1979) has abandoned the "four walls" conception of the isolated institution run according to professional standards and judgements, and replaced it with the "open system" perspective (Lawrence and Lorsch, 1961) of the buffeted institution subject to stormy environments both within and without. Practical work on schools has also made the transition. Texts on school leadership (e.g., Morris, Crowson, Porter-Gehrie, and Hurwitz, 1984) now emphasize the importance of political mediation and community relations skills for successful principals. But empirical work has failed to take the environment seriously. Rigorous analyses of school organization and performance continue to concentrate on the internal dynamics of the school. Anecdotal evidence and spotty case studies remain the primary sources of our understanding of the school environment. Not only are we unclear about the effects of environmental variations on school organization, we even lack a clear conception of how environments vary in the first place.

A comparison of public and private schools is a good way to begin clarifying these matters because the differences between their environments may represent the total variation in school environments generally. Private schools, after all, have considerable freedom to choose their environments, and presumably choose ones that are relatively friendly. Public schools have their environments imposed on them, and have no way to ensure that theirs are even benign. The benefit of comparing the public and private sectors is therefore the prosepect of capturing major differences in the quality of relationships between schools and their environments--in the demands the environment imposes, in the resources it provides, and in the pressures and constraints it applies as the school attempts to keep the environment satisfied. To the extent that the environments do differ substantially, the prospect of observing organizational consequences is also enhanced: school leadership, rules and structure, and staff relations ought to differ substantially too. But before looking at any of these things in the ATS schools, it is essential to understand the fundamental differences between the provision of education in the public and private sectors. These differences provide the basis for explanations of a host of differences in public and private schools observed in the subsequent analysis.

First, and foremost, public and private schools differ in their systems of governance. Public schools are governed by legitimate democratic authority. They are established, ruled, and supported by local, state, and to some degree the federal government, and they are ultimately controlled by the people--the parents and other adult members of the local school district, the citizens of the state, and even the citizens of other states. As a result, public schools are legally obligated to satisfy all democratically expressed demands that are made of them. Among the most important of these demands is that a public school educate the children of every parent who, by virtue of residence, has a legal right to participate in the governance of the school. Private schools, by contrast, are not governed in any democratic sense; they are owned and managed. Parents have no legal right to participate in their operation. Private schools are legitimately controlled by their owners, who are entitled to contract to satisfy whatever parental demands and to educate whatever children they choose. In sum, public schools are forced to satisfy all legitimate demands from an environment over which they have no control while private schools are free to select a set of demands and an environment that they believe they can satisfy efficiently.

It follows from the difference in governance that public and private schools will also differ in administration. In particular, the environments of public schools are likely to be administratively more complex than the environments of private ones. To be sure, schools in both sectors may find themselves embedded in extensive hierarchies--the public subject to a powerful superintendent and a large, bureaucratic central office, the private subject to umbrella organizations such as an archdiocese. But however byzantine the respective supervisory structures, the public structure is almost bound to be more so. It embodies the demands of several levels of government, each of which is providing resources, imposing regulations, and trying to realize various objectives. The demands on public schools therefore go well beyond those of the parents whose children are in attendence. Indeed, they can be quite numerous, and coming from uncoordinated sources, they can be contradictory and confusing as well. Private hierarchies are very different. Because they are largely free from legitimate government authority, private hierarchies tend to rise to a single peak, a sole authority, such as a governing board. They consequently embody fewer and less contradictory demands--and display less complex administrative structures.

The third and final difference between the sectors involves their finance. Public schools have their resources allocated to them by authorities who do not directly consume their services while private schools receive their resources in a direct exchange for services rendered. The resources of public schools are therefore less closely connected to the school's performance. Effectiveness may be rewarded by the environment or it may not; the same is true of ineffectiveness. Public schools therefore operate under considerable uncertainty, never confident that their efforts will pay off. They must depend on the beneficence of various political processes that include a host of participants other than parents, and on their own ability to bargain for funds from their local superiors. For private schools, resources are not necessarily easier to acquire. To the contrary, competition with other schools, coupled with parental demands for excellence, may make resources harder to acquire. But the resource problem is a simpler one, with a clear connection between school success in accomplishing goals and school rewards from the environment. "Perform or perish" brings considerable certitude to the relationship between private schools and their environments.

Of course, the effects of these basic differences--in governance, administration, and finance--on school organization and performance may be diminished by aspects of high school education that the sectors have in common. Professional norms such as teacher autonomy may minimize sectoral differences in the classroom. Administrative systems outside of schools may be sufficiently complex in both sectors that their differences are less important than their similarities. And, parental influence over schools, if it is exercised mainly through direct involvement, may not differ between the sectors at all. Because of these and other complications, it is difficult to construct a thoroughgoing theory of the school environment--one that permits deductions about the gamut of environmental influences and organizational consequences. But those complications do not vitiate an empirical comparison of the environemnts and organizational characteristics of schools in two sectors that fundamental considerations suggest are radically different. Indeed it makes a hard look at the data all the more necessary--and interesting.

Schools and Their Immediate Authorities

Although public and private schools are controlled by their environments in fundamentally different ways, schools of both types are almost invariably subject to immediate outside authorities. Few private high schools, of any size, are completely without governing structures and entirely in control of their organizations and operations. A principal or a headmaster is rarely the only intermediary between the school and its parents. Private schools are at least subject to the decisions of boards of directors, and in most cases are parts of administrative systems, which are sometimes very large. Public schools, even in small systems with only one high school, are immediately responsible to a school board and almost invariably to a superintendent and district office. Because the public system of authority is imposed and the private system is chosen, they will differ, as we have argued, in important respects. Yet notwithstanding these differences, it is far from clear how schools in the two sectors will compare in their relationships with their immediate authorities. Do Catholic and other private school principals and headmasters have more influence than public principals over important decisions about the organization and operation of their schools? Or do they have less? Are non-public superiors less constraining and more cooperative than public superiors, or is it the other way around? Are private school systems comparatively centralized to ensure that demanding parents are satisfied (and their tuition keeps flowing), or are the public systems more centralized to ensure that their multiple sovereigns are satisfied? We simply do not know; the data necessary to answer these questions have never before been collected. This is unfortunate not only because these questions are important parts of the larger question of school performance, but because they lack intuitive or theoretically straightforward answers.

In the Administrator and Teacher survey we addressed these questions by trying to measure those dimensions of the relationship between the school and its authorities that promised to have the greatest impact on school performance. On the assumption that a school's control over major elements of its organization and operation is likely to be a key determinant of its ability to satisfy outside demands, we looked most extensively at patterns of influence. In other words, who has more influence over basic matters of policy and personnel: the school principal or the school's authorities? We asked specifically about the influence of the school principal or headmaster, the central office, the school board or governing board, and the superintendent over the following policies or practices: curriculum, instructional methods, disciplinary policy, hiring new teachers, and dismissing or transferring teachers. (The wording of these items and all other items used in this analysis is provided in Appendix B.) To make a useful comparison between public schools, which are usually subject to all of the authorities about which we asked, and private schools, which are not, we focus here on the one authority outside of each school that is regarded as most influential. That is, how influential is the most powerful authority in each school's environment, and how does this influence vary across issues and sectors?

The answer (see Table 1) is almost shocking in its consistency. In each of the private sectors--Catholic, other private, and elite private--and for every policy and practice, the strongest outside authority is less influential than in the public sector. The strongest authority is also weaker relative to the influence of the principal in the private sector than in the public. Despite the realtively small number of schools in the Catholic and other private subsamples, most of the differences are statistically significant.[1] Assessed by principals on six-point scales, the median difference in the influence of outside authorities is more than a full point between the public and private sectors. The differences, in other words, are more than consistent; they are substantial.

Two regular variations that occur within this general pattern are worth noting, however. The first is that the differences between the private sectors and the public are much larger on matters of personnel than on matters pertaining to educational content and practice. The differences between public and private are twice as large for hiring and firing as they are for the other issues. Outside authorities are reported to have a great deal more influence over the staffing of public schools than of privates, and principals, relative to outsiders, a great deal less. The importance of this difference will become apparent when relations between principals and their staffs are considered below.

The other regular variation, which will be repeated regularly in this analysis, is the unsuspected strength of the Catholic schools relative to their environments. Outsiders are weaker among Catholic schools than among the other private schools (and similar in weakness among the elite privates). It would have been reasonable to surmise that Catholic schools, because they are often part of large systems, and are run as appendages of a church that is hierarchical in own governance, would be every bit as influenced from the outside as public schools. Surely, Catholic schools would not be expected to be freer of outside influence than other private schools. Yet, that is what the survey plainly shows.

The results are lent added credibility by two other indicators of the relationship between the school and its outside authorities. Schools want more from their relationship with their authorities than influence over those elements of school organization and operation that affect their ability to accomplish their goals. Once policy and structure are established, and influence exericised, they want a relationship with their authorities that is not excessively constrained by rules, norms, and standard operating procedures; they want flexibility. They also want to avoid conflict; cooperative authorities can obviously ease the day-to-day difficulties of operating a modern high school. Unfortunately, constraint and conflict often go hand-in-hand with hierarchy (e.g., Downs, 1965). Schools that are imbedded in large systems may find their relationships with their superiors relatively constrained and conflictual. Generally we would expect the public schools to experience these problems more than the private schools. And indeed, that is what we found (see Table 1) for other private schools and elite private schools. The differences are not huge and they are just shy of statistical significance, but they are consistent and in the right direction. The same is not true, however, for the Catholic schools. There is no appreciable difference between the constraint they experience and that experienced by the public schools; the cooperativeness of Catholic authorities may even be a bit less. Catholic schools, in other words, are acknowledging that they too are subject, as is often suspected, to a substantial hierarchy. Yet despite the hierarchy, Catholic schools differ from public schools in a crucial respect. They, like all private schools, enjoy more influence over their organizations and operations than public schools. Outside authorities in the public sector exert more control over their schools than outside authorities in the private sector do over theirs.

The Parental Environment

The parents of public and private school children are likely to exhibit important differences. All things being equal--and this is a strong condition--parents who send their children to private school attach a greater value to education (broadly defined) than parents who send their children to public school. If two families with the same income, living in the same neighborhood, paying the same taxes, and raising the same number of equally talented children choose different high schools--one public, the other private--for their children, it is presumably because the family which selects the private alternative places a higher value on education than the other. This differnce is likely to be experienced by students in a variety of ways at home. Private school parents will probably hold higher expectations for their children's achievement, pay closer attention to their academic progress, and generally provide greater encouragement for learning than public school parents.[2] The parents in the ATS schools indeed differ in these respects: parental expectations and parental monitoring of student work are substantially and significantly higher (see Table 2) in all of the private sectors than in the public. We must caution that these differences do not reflect controls for a host of important parental background characteristics that would paritally account for them. But this analysis is not attempting to disentangle the effects of parental background, school quality, and school sector on student performance. It is attempting to descrive precisely how the sectors differ. And, a big difference lies with the parents: they expect more from their children and they monitor them more closely.

These differences in parental relations with children follow logically from the parental choice of public or private education. But what differences are implied for parental relationships with the school? Will private parents be more involved in the school or less? More cooperative with the school or less? A simple answer is not logically implied. Private parents are more likely than public parents to be in a school's environment by choice--because they prefer it to the alternatives, and relatively speaking, because they like it. Private school parents are also, to some degree, chosen by the school. Private schools explicitly control their student populations, and are free to exclude students whose parents are difficult or otherwise undesirable. Private parents should therfore tend to have more favorable attitudes toward the school than public parents.

However, this does not ensure benign parental environments in the private sector. Private parents have a mechanism of control over the school, not practically available to public parents, that makes their relationship with the school unpredictable. That is, private parents are free to leave the school, to "exit," in Hirschman's (1970) famous terms, if they do not like what the school is doing. Private parents do not need to coooperate with the school, and they do not need to get deeply involved in the school, to strenuously exercise their "voice," in order to change things to which they object. Public parents are in a different position. Short of moving to a new town, public school parents have no options, other than getting involved, and ultimately, cooperating. Private school parents are compelled to do neither: they can just leave.[3] Public school parents may therefore be more involved and even more cooperative than their friendlier private counterparts.

How do these considerations add up in the ATS schools? Decisively and consistently in one direction. Private schools have more favorable parental environments. Parents are much more involved (see Table 2) in Catholic, other private, and elite private schools than in public schools, and they are more cooperative. Although high involvement, as well as high parental expectations, have negative effects on the overall cooperativeness of the parental environment, all of the classes of private schools have significantly more coopoerative relations with parents than public schools--even when those detriments to cooperativeness are controlled. Private schools, in other words, have the better of both worlds: their parents participate more in the school, and on balance, are more supportive.

These are not, however, the only important differences. Public schools, also have less freedom in choosing how to respond to their more difficult environments. Public schools are more constrained by formal rules and informal norms in their relationships with parents than are private schools (see Table 2). Public school parents are more likely to be required to express their complaints through formal channels, both inside and outside of the school, while principals and teachers are more likely to be limited in the remedies they may grant to parents with reasonable grievances, and in the sanctions they may impose against parents with unreasonable ones. Public schools, then, have less flexibility to cope with more difficult parental environments than private schools have to cope with less difficult ones.

This is not, of course, a characteristic of public school authority that is confined to issues of parental relations. As we showed above, the systems of authority controlling public schools exercise more influence than their private counterparts across a range of issues basic to the school's organization and operation. From the school's perspective the public environment is indeed a very different one from the private environment. In a word, it is more centralized.

Public versus Private Principals

If schools are products of their environments, the effects of the environment on the school may be most pronounced in the principal's office. The principal is the focal point of contacts between the various components of the environment and the many elements of the school organization. The principal takes the full force of the environment--its excessive demands, its harsh budget constraints--and tries to buffer the school from it--to implement its policies, follow its rules, and live within its financial limits in a way least disruptive to the smooth functioning of the school. But the principal cannot block out the environment's influence entirely. The principal's job depends on his ability to satisfy at least the immediate authorities in that environment. Principals should therefore show the marks of their environments, and the differences in those environments, clearly.

It is important to recognize that to the degree this is true, the implications for school effectiveness may be profound. Studies of effective schools increasingly point to the key role of the principal in enhancing school performance (e.g., Brookover, et al, 1979; Blumberg and Greenfield, 1980; Persell, 1982). Excellence in education appears to demand a principal who articulates clear goals, holds high expectations, exercises strong instructional leadership, steers clear of administrative burdens, and effectively extracts resources from the environment. However, the school environment can have a lot to say about whether the principal is able to practice these precepts of effective leadership. The quality of leadership in a school does not inhere in the individual filling the role. It is contingent on the demands, constraints, and resources coming form the environment (not to mention the conditions percolating within the school itself). Depending on the nature and strength of environmental effects on the school, the principal may have only a marginal effect on school performance. Effective schools may indeed be led by strong principals, but their strength may derive substantially from their environment.

Existing research indicates that principals may, in fact, be heavily influenced by their environments. An excellent ethnographic study of 16 principals (Morris, Crowson, Porter-Gehrie, and Hurwitz, 1984) found that public principals are forced by incessant, and often minor, demands to divide their time among hundreds of brief interactions each week, to develop skills more commonly found among politicians, and to eschew important leadership functions such as guiding curriculum and instruction. Other studies (e.g., Bridges, 1970) have gone so far as to characterize the principal as the "captive" of his or her environment. In truth, however, the nature and strength of the environment's effect on the principal is not well established. With one notably atheoretical exception (Salley, et al, 1979), large-scale studies of public school principals and their environments are virtually non-existent. The same is true of research on private school principals (Greenfield, 1982). All that we know about principals is based on limited, though intensive, case studies, and most of what we understand about outside influence on principals is exceedingly general.

The public and private principals in the large sample of ATS schools may relieve some of our ignorance because they do in fact differ substantially (see Table 3). Consider first how they came to their jobs. Private school principals have significantly more teaching experience than public principals--nearly four years in Catholic schools and more than five years in other and elite private schools. This difference is consistent with the frequent occurence of career ladders in public school administration that provide opportunities early in the tenures of public school teachers to move into a host of subordinate administrative positions, such as assistant principalships, and begin the climb to the top. It is not, moreover, an artifact of the larger schools, and consequently greater administrative needs, in the public sector. The differences in principal teaching experience take into account the number of students and the number of grades in the school. Whatever its origin, however, this difference may well have implications for the relative rapport between principal and teachers, the principal's perception of his role, and other aspects of the job pertaining to the tasks of teaching.

Public and private principals also come to their jobs with somewhat different motives. True, the major motivation of the average principal in each sector is to "take on the challenges of being the principal." But beyond that, their motivations differ.[4] All private principals are likely to give a higher rating to "control over school policies" than public principals as a reason for accepting the position. Public principals are significantly more likely to be motivated by a "preference for administrative responsibilities," and a "desire to further (their) career." Public school principals are, in a similar vein, significantly more interested in moving "up to a higher administrative post." Overall, the differences in career orientations are plain. Public school principals disembark from teaching relatively early, get on an adminsitrative track, and take the job of principal to keep the train rolling. Private school principals are scarcely on a track at all. They stay in teaching longer, and when they take control of a school, it is to influence matters of substance.

These differences, we must caution, are not matters of day and night. Private school principals also have a strong taste for administration, and public school principals are not far behind in their concerns over school policy. But the differences are real and they are consistent. They are also in line with the differences in public and private environments seen earlier. Public systems exercise more control from outside the school, and give principals more reason to steer their careers toward the outside too.

Similar differences characterize the leadership of principals once they are on the job. Public school principals are more prone to see their role as that of an "efficient and effective manager" and as a "representative of parents, leaders, and sponsors" than are private school principals. In contrast, private principals, more than public, see their roles fitting the alternatives to these: namely, "leading the school in new educational directions," and "selecting and directing school policy according to (their) best professional judgement." These differences are not all large, and the probability that they are zero is not trivial. Yet, for all three private sectors and for both pairs of role alternatives, the private principals differ regularly from the public. Moreover, the difference is in the expected direction. Public school principals, operating in more complex administrative environments and facing the more numerous demands of legitimately entitled participants, are more likely to take on the roles of manager and representative. Private school principals have greater freedom to pursue the roles of leader and trustee, and to direct their schools according to their best professional judgements.

School performance may well be influenced by these role perceptions and career motivations because they seem to go hand-in-hand with the principal's leadership practices. Teachers in the ATS schools were asked about a number of aspects of the principal's leadership (see Appendix B), the responses to which were strongly related to one another. Together they provide a reliable measure of perceived leadership. In each of the private sectors, principals were rated as all-around better leaders than public principals. There is no doubt about the statistical significance of these differences, and like all of the organizational differences explored in this analysis, they take into account school size and complexity, factors that do make the task of leadership more difficult. To the extent that leadership can be measured by factors such as knowledgeability, communication skills, clarity of purpose, and willingness to innovate, private school principals are regarded as stronger leaders by their staffs than are public principals.

But how might these differences concretely affect school performance? A prominent possibility is if they spill over into the one area of leadership that is mostly widely regarded to affect school performance, that is, instructional leadership. Do public and private principals differ in the quality and quantity of assistance that they provide teachers with their instructional problems? The answer is a resounding yes. Private principals, irrespective of school size and complexity, are more helpful to teachers than their public counterparts. In this crucial area of the job, as in so many others, public and private principals display basic differences that parallel the differences in the environment. While these differences may well have other causes--perhaps the quality of students--the tilt of the public principalship toward administration and politics, and of the private principalship toward leadership and professionalism, are more than environmental coincidents. They are what we should expect.

The Structure of the School

Principals work the borders between schools and their environments, and consequently wear the most visible scars of the border wars and skirmishes they are forced to fight. But just across the border, the school's terrain is also marked by battle. It is carved up by policies, rules, and procedures negotiated with or imposed by the environment, regardless of how effectively the principal guards the border. Those policies, rules, and procedures constitute the school's structure and establish the boundaries within which the school must perform. Perhaps above all else that goes into the educational process--instructional methods, the content of courses, and even the staffing of the school--the environment wants to control school structure. Establish the goals, specify the product, constrain the process, and provide the resources--if the environment can do these things, it can afford to eschew the trying task of monitoring the school's daily operation.

So how are public and private schools structured, and does the architecture reflect the work of their different environments? First, public and private schools pursue distinctly different sets of goals. Public schools (see Table 4) place significantly greater emphasis than private schools on basic literacy, citizenship, good work habits, and specific occupational skills. Private schools are significantly more likely to favor academic excellence, personal growth and fulfillment (e.g., self-esteem), and human relations skills such as the appreciation of other cultures. From an environmental standpoint these differences are not surprising, except in their strength and clarity. We are, after all, looking at three very different types of private schools, most of which would not ordinarily be labeled "elite," and at a cross-section of public schools that includes many of the highest quality. Yet virtually without exception the three private sectors rank one set of goals significantly higher than public schools, and the other significantly lower.

Public schools, it seems clear, are pursuing a package of goals naturally suited to a system of universal education. They are obligated to educate everyone, are subject to legitimate parental and political pressures if they fail, and have chosen a set of goals to ensure broad satisfaction. Everyone should leave school literate and capable of participating in the political system of which the public school is a part. If everyone has not acquired the skill or motivation to pursue education beyond high school, he or she will at least graduate with the work habits and perhaps even the specific skills to move smoothly into the labor force. This is not to say that this is the best educational strategy for public schools; they might achieve a higher level of public satisfaction if they pursued the less patently utilitarian goals pursued by private schools. But the choice of objectives that represent lowest common denominators for the public school clientele is an understandable choice given the environment public schools must serve. Private schools, having the freedom to choose their environments, are able to select a set of goals, and promise a type of education, for which there is a market. In their collective view, that market is one that values intellectual achievement and emotional development.

These differences, it is important to note, reflect only the views of school principals. As such, they alone tell us more about the effect of the environment on the principal's priorities for the school than upon the school's structure per se. Whether the differences in school goals emanating from the principals' office become manifest in school structure, and ultimately performance, depends on whether those goals are upheld by specific policies and are appreciated by the staff.

The policies of public and private schools (see Table 4) seem to do just that. Catholic schools, other private schools, and elite private schools all have more stringent minimum graduation requirements. Private school students, regardless of track, must take significantly more English and history, science and math, and foreign language in order to graduate from high school than public school students. In science, math, and foreign language the differences range up to two years. Private schools are simply less likely than public schools to provde an easy way out for any student. Private schools are also less likely to permit students to go without homework. Other private and elite private schools are especially tough in this regard. Over half of these schools establish schoolwide daily minimums per subject, strongly encourage homework, or, in cases where faculty are overzealous, set daily maximums per subject. In contrast, ninety percent of all public schools leave the amount of homework entirely up to teachers. Catholic schools fall in between these extremes, with the majority giving teachers discretion but with twice the public proportion having a schoolwide policy. In short, the private and public sectors follow through with specific policies consistent with their disparate goals, the former geared for academic excellence, the latter for something less.

The remaining question is whether these differences in basic purpose are appreciated by the staff. Interestingly, they are to very differing degrees in the two broad sectors. Teachers in all three types of private schools say that the goals of their schools are clearer and more clearly communicated by the principal ("goal clarity" in Table 4) than teachers in public schools report. In addition, private teachers are more in agreement among themselves about these matters. Private teachers, in other words, are more likely to understand that the aims of their schools tend toward academic excellence and personal growth than public teachers are to grasp that the objectives of their schools emphasize the basics and practical skills. This difference is not confined, moreover, to the professional staff nor to the lofty level of school goals. Students experience it, for example, in dealing with school disciplinary policies. From the perspective of students, disciplinary policies are more ambiguous in public schools than in private: public students are less likely to know what comprises school policy than private students. In light of this difference, it is not surprising to find that public school students regard their policies as less fair and effective too.

Public and private schools, then, not only have different goals and policies, but different degrees of goal and policy clarity. The latter of these general differences, especially, is likely to have important consequences for school performance. The fact that public and private schools pursue different sets of goals is in some respects less important to school performance. It may well be that the average type of student in public schools progresses more rapidly in an educational program that focuses sharply on the basics and on practical skills. Goals that establish falsely high expectations may be less effective. It may also be more sensible to evaluate school performance against the goals schools set for themselves (Bryk, 1981) than goals, such as academic achievement, that analysts wish to impose. Public and private schools may be equally efficient or effective—at achieving different things. But there is no getting around the problem that unclear goals may cause for school performance. Organizations that disagree about basic purposes are simply less likely than organizations that agree to achieve the goals that leadership establishes. There is nothing intrinsic about the number or type of goals pursued in public schools that places them at a disadvantage relative to private schools. The goals pursued in public schools are no less consistent nor inherently ambiguous. But the difference in goal clarity between the sectors may still be intrinsic. It may be a product of the more complex and demanding environments in which public schools inevitably operate, environments that lack the mechanism or incentives to provide schools with a clear and consistent set of demands.

Unfortunately, they are also environments that may fail to provide sufficient resources to satisfy those demands. In public schools, teachers complain about the availability of essential instructional materials and supplies (Table 4). This is just as true in comparison to Catholic schools, where per pupil expenditures are lower that public schools, as it is in other private schools where per pupil expenditures are higher.[5] It is well beyond the scope of this analysis to estimate whether the resource shortages experienced by public teachers are due to public school inefficiency, environmental stinginess, or something else. But that does not diminish the importance of noting an additional component of emerging organizational syndromes in public and private education in which schools closely mirror their environments.

School Personnel

The syndromes only enlarge when we compare the personnel systems of public and private schools. They too differ in basic respects. comprise their organizations, private schools significantly more. Of course, these differences might be expected given the general characteristics of public and private enterprise in this country. Public agencies, such as schools, are largely staffed by personnel whose hiring, firing, promotions, salaries, fringe benefits, grievance procedures, and the like are governed by public personnel systems (sometimes public unions) not realistically within the agency's realm of choice or influence. Private enterprises, despite the prospect or existence of unions, are usually less encumbered in these respects. Still, the differences that we find are less intuitive than analogies with other agencies and enterprises might suggest.

Whether a school is publicly controlled or privately owned, it is not free of outside authority. The size and complexity of that authority may vary—from a large bureaucracy in an urban public or parochial school system to a solitary governing board for a small private school—but the leaders of few schools are formally their own sovereigns. Outside authorities are concerned about the performance of their schools and seek to influence or control them. The most important ways that they do this are by establishing the school's structure--its policies and procedures--and by controlling its staff, by deciding who is hired and who is fired. There is no logical reason why the authorities outside of private schools would be any less interested in exercising this basic form of control than the authorities outside of public schools. At the school level there are no inherent characteristics of public and private enterprise that provide private schools more control over personnel than public. Yet, that is what we find.

We asked principals to evaluate an assortment of potential barriers to hiring excellent teachers. On a number of obstacles, including important ones such as applicant shortages and low pay, principals in the public and private sectors agreed on their severity. But on two (see Table 5) they disagreed across the board. Public school principals regard "central office control" and "excessive transfers from other schools" as larger barriers to hiring excellent teachers than the principals in any of the private sectors. In contrast, not one barrier was rated higher by private schools than public schools. Interestingly, the differences in barriers are greatest between the public and the Catholic schools, where outside hierarchy is often found. Taken alone these differences do not point to vastly different hiring systems. But viewed in conjunction with the influence of outside authorities over hiring that was discovered earlier, and the influence of teachers that will be discussed below, public and private methods of hiring are clearly distinguished by their degrees of centralization--the public more so and the private somewhat less.

The distinction positively crystallizes when the other side of the personnel system is considered. Public school principals face substantially greater obstacles in dismissing a teacher for poor performance than private school principals. The procedures are far more complex, the tenure rules more constraining, and the preparation and documentation process roughly three times as long (Table 5). The complexity and formality of dismissal procedures is the highest barrier to firing cited by public school principals. For private school principals, of every type, the highest barrier is "a personal reluctance to fire." These responses provide a rather poignant statement of the differences between the sectors: while the public school principal is bound most by red tape, the private school principal is bound most by his conscience.

Principals do, of course, have other forms of control over their staffs. They can encourage undesirable staff to resign, retire, or transfer. They can offer good teachers special assignments or relieve them of onerous duties. They can recognize high performance with awards.[6] But none of these practices differs systematically across the sectors. Public principals are without formal tools to compensate for the centralized and administratively complex systems of hiring and firing in which they must work.

It may be no coincidence, then, that public schools have, by some measures, less desirable teachers than private schools. Based on principal evaluations of teachers, we estimate that private schools, depending on sector, have anywhere from 7 percent to 25 percent more excellent teachers than public schools (Table 5). Public school principals also face a much more serious problem of teacher abenteeism: attendance rates are poorer, more substitutes are required, and principals are more likely to complain about the situation. Of course, these differences in teacher quality may have explanations other than the personnel system--but not obvious ones. For example, excellent teachers are not attracted to private schools for the financial rewards. The lowest annual salaries in Catholic schools, we estimate, are nearly $1800.00 below those in public schools, and the lowest in other private schools more than $1500.00 below those in private. Similar differences hold at the upper end: Catholic teachers peak more than $4300.00 below public, and other private teachers $900.00 below. Only in elite private schools, where pay is higher than in public, is financial reward a promising explanation of higher quality teachers. In the other schools, the different locus of control over hiring and firing must be a leading candidate to account for sectoral variation in teacher quality.

Whatever their effects on teacher quality, however, it is important to understand why personnel systems differ in their loci of control--why public systems are more centralized and private more decentralized. The answer lies mainly in two closely related developments in the public sector that have not progressed as far in the private sector. The first is the tenure system, and the second is unionization.

Tenure systems in public schools are special cases of the employee protection--or civil service--systems that exist at all levels of American government. In general, these systems exist to protect employees of public agencies from the vicissitudes of politics and the temptation of newly elected officials to reward hundreds or even thousands of loyal supporters with jobs in public agencies. Patronage systems, as the alternative to civil service systems are known, discourage the best people from pursuing public sector careers and undermine the professionalism of public agencies. To correct these problems, reform movements in the late 1800s from the local level to the national, but especially at the local, pushed to replace patronage with non-partisan, impartial systems of hiring and firing. The tenure system in the public schools is justified by a similar logic, and owes its origin to many of the same political forces (Peterson, 1985). Since the turn of the century, tenure systems have spread widely in public education. They have also become more elaborate in their protections. The latter development, however, is not a product of progressivism or broad interest in the depoliticization of the public service. Rather, it is a response to the assorted efforts of teacher associations and unions ranging from legislative lobbying to collective bargaining to provide teachers with tenure rules and labor contracts that more thoroughly protect their members from dismissal.

Tenure rules and labor contracts are not limited, of course, to public employment. At the college and university level private schools follow tenure rules in much the same way as public schools. And, in private employment generally labor contracts and unionization are not uncommon. To be sure, the private sector lacks powerful anti-patronage incentives to develop extensive systems of employee protection. Nevertheless, it is not clear that huge disparities in tenure and unionization should characterize public and private secondary education. That, however, is what we found (see Table 5).

Significantly and substantially more public schools than private schools offer tenure or its equivalent. While 88 percent[7] of all public schools offer tenure, the percentage is far less in private schools, even considering differences in school size and complexity: 62 percent less in Catholic schools, 71 percent less in other private, and 49 percent less in elite privates. Among schools that do offer tenure, the proportion of teachers enjoying it is also significantly different. Nearly 80 percent hold tenure in public schools, but the figure is 10 to 16 percent lower in the three private sectors. The differences in unionization are even wider. Public schools are unionized in roughly 80 percent of all cases, but even allowing for school size and complexity, Catholic schools in only 10 percent, and other private and elite private practically never.

These disparities in the development of tenure protections and organized representation go a long way toward accounting for the differing degrees of centralization in public and private personnel systems. In public systems where tenure is provided, protections are usually guaranteed through laws that are written by democratic authorities--school boards or state legislatures. Teachers are protected, in other words, by authority residing outside the school. If important parts of a teacher's insurance package against dismissal are contained in a union contract, additional outside authority is imposed on the school. To the extent that these constraints exist, less control over personnel matters can be delegated to the school level--even if central offices and superintendents want control to rest at that level. Tenure rules and union contracts settle the issue of where and how personnel decisions--especially regarding termination or transfer--will be made. They will be centralized.

To the extent that private schools have tenure systems and union contracts, their principals may be similarly constrained. Their rules derive from the authority of governing boards, church authorities, or some source outside the school. But the private sector is substantially free of these constraints: they are found infrequently, and when they are, they provide fewer teachers with long-term protection. Private schools and their outside authorities are therefore freer to decide how and where major personnel decisions will be made. When measured against the public schools, that decision favors decentralization. Private schools and private principals have greater control over the staffs that comprise their organizations and teach their students than their public counterparts. And that, as we shall see, is reflected in the staff relationships from the top to bottom of these very different systems of education.

Staff Relations

It should now be clear that the fundamental organizational difference between public and private systems of education is the greater freedom that private schools are provided by their environments in structuring and operating their institutions. Outside authorities are less influential, parents are more cooperative, decision-making about policy and personnel is more decentralized, and leadership is more professional and independent. Yet, it is not altogether clear how the fundamental difference reverberates through the organization. Goals are clearer, policies are less ambiguous, resources are less of a problem, and teachers may be of a higher caliber. But these dimensions provide an incomplete picture of how the organization functions. They do not tell us how decisions are made internally, how much influence or control teachers have over their teaching, or how teachers get along with each other. They do not tell us what the private school does with the greater freedom and discretion that its environment grants--whether it concentrates it in the office of the principal or whether it passes it down to the staff. It remains to be seen, in other words, if private schools strive for academic excellence and high performance by operating according to a more authoritarian model of organization or a more democratic one.

The answer may surprise, for despite the reputations that private schools have for rigid curricula, traditional instructional methods, strong principals, and in general, centralization, the opinions of the staff suggest nothing of the kind (see Table 6). Private schools consistently manifest fewer of the consequences of hierarchy than public schools. The teachers in private schools are significantly more likely than those in public schools to regard their principals as encouraging, supportive, and reinforcing. They feel more influential over school-wide policies governing student behavior, teacher in-service programs, the grouping of students of differing abilitites, and school curriculum. Within their classrooms, private teachers believe they have more control over text selection, course content, teaching techniques, disciplining students, and in the Catholic schools, determining the amount of homework to be assigned. (The non-Catholic private teachers feel constrained by the school-wide homework policies identified earlier.) Even on the matters of teacher hiring and firing private school teachers appear more influential than public. Virtually all of these differences are significant, and except for the issue of homework, the direction of the relationships is consistent across all three sectors for all issues. Relative to public schools, private schools appear to delegate significant discretion to their teachers, and to involve them sufficiently in school level policy decisions to make them feel efficacious. Private schools also do a significantly better job of relieving teachers of routine and paperwork--two other indicators of hierarchy and formality.

The relative freedom that private teachers have to control their work, and the support and reinforcement--as opposed to supervision and evaluation--that they receive from their principals in exercising this freedom are reflected in the relationships among the teachers themselves. Private school teachers are more likelty to know what their colleagues are teaching, and to coordinate the content of their courses. They spend more time than public school teachers meeting to discuss curriculum and students, and more time observing each other's classes. Finally, they have a higher level of collegiality. Private teachers, to put it in the plain terms of the survey, are more likely to believe that they "can count on most staff members to help out anywhere, anytime--even though it may not be part of their official assignment," and ultimately that the "school seems like a big family." All of these differences are large and statistically significant, but their full significance may be much greater. These elements of teacher relations are prominent elements of most explanations of effective schools. While it is well beyond the scope and purpose of this analysis to estimate their effects on students and learning, it requires little faith to believe that these variables may provide the beginnings of a systematic and testable organizational explanation of school performance.

Within the scope of this analysis, however, is the question why public and private schools feature such distinctive internal orgnaizational relationships. Why do private schools seem to delegate more discretion to teachers, involve them more in decisions as important and sensitive as the hiring and firing of their colleagues, ans support, more than supervise, their activities? The answer, we suspect, lies where it has throughout this analysis: in the school environment. Public school systems leave fewer substantive issues for their schools to decide, and provide them with staffs that their leaders have had less influence in selecting, and have less ability to control. Public school principals are therefore less willing to invest in them the trust that private principals are willing to invest in theirs. With less to decide and a less trustworthy staff to involve, public prinicpals are more likely than private principals to centralize.

This is not to say, however, that private schools tend to be internally democratic or that teachers decidedly direct school policy. While it seems certain that private teachers have more discretion and control over particular aspects of classroom instruction, they may not be truly influential over school policy. It is more likely that what we are observing in private schols is an almost organic organization at work. The leaders are able to staff the school the way that they wish. It is safe, therfore, for them to involve teachers integrally in decisionmaking processes. The teachers support policies that are ultimately adopted, and consequently feel efficacious. But the process moves in the direction favored by the school leader because the staff is predisposed in his or her direction. Over time, as internal consensus and harmony become institutionalized, questions of power and centralization become inappropriate. Everyone has influence, yet the school proceeds as if it is strongly lead. The environment of the private school affords it the luxury of moving in this direction by giving it significant control over its own fate. The environment of the public school simply does not. The effects of this difference can be seen all the way to the bowels of the bureaucratic organization that the public school almost inevitably is.

Conclusion

Research on schools is currently struggling with two issues of major and controversial proportions: the issue of whether, and by how much, private schools outperform public schools, and the issue of the causes of school effectiveness. Unfortunately, current theories of school behavior have failed to provide sufficient illumination to lead either of these debates to a conclusion. Current theory either focuses a spotlight on individual elements of internal school practice while obscuring the elements around them, or throws a floodlight on the school from that outside that fails to reveal the school's inner workings. We have, as a result, a host of hypotheses about school effectiveness that together amount to nothing more than a list. And, we have general conceptions of schools as open systems that do little to explain variations in school performance. The overarching objective of this analysis has been to show that progress toward a general theory of school behavior can be made by integrating elements of both of these approaches.

By comparing public and private schools we have tried to show that school environments vary in predictable ways. By understanding these variations within the context of what is essentially an open system model of organization we have tried to show that they have predictable relationships with school structure and operation. By focusing our empirical analysis on elements of school organization that research on effective schools has found to influence school performance, we believe we have identified environmental variations that may ultimately help us understand why schools succeed or fail.

Beneath this overarching objective is a more specific but equally important one: to begin to establish the linkage between the sector in which a school resides and the performance of students educated in that sector. The work of Coleman and his associates on the HSB sample of high schools has provided substantial evidence, however controversial, that Catholic schools outperform other private schools which, in turn, outperform public schools. What this work has not provided is an explanation of that performance. In this analysis we hope that we have demonstrated that we are on the right track toward finding one. Of course, a great deal of work remains to be done. Causal analysis is needed to confirm the linkages between the environment and the organization that our descriptive analysis has only suggested. Student performance must be integrated in the causal analysis too. Nonetheless, the differences between public and private environments and their respective school organizations are so empirically stark, theoretically logical, and perfectly consistent with both research on effective schools and on sectoral performance, that it hardly requires religious faith to believe that the approach will prove illuminating.

Public schools, relative to private, live in environments that are complex, demanding, powerful, constraining, and uncooperative. As a result, their policies, procedures, and personnel are more likely to be imposed from the outside. Public principals make the best of this environment by blending two roles, the middle manager and the politician. Like the middle manager, he consolidates whatever power is given him and guards the school's few prerogatives against the influence of a staff over which he has inadequate control. In the same role he emphasizes efficient administration as a safe way to please the administrative hierarchy of which he is a part. But the principal must also deal with a more complex and less friendly environment than the private principal--an environment that is politicized by school boards, state politicians, superintendents, local community organizations, and last but not least, parents. To do so, he plays the role of a politician, campaigning for the support of his school from a host of sometimes hostile constituencies.

A striking measure of this political behavior (see Table 7) is the tendency of all principals, public and private alike, to paint a rosier picture of the school than that painted by the staff. On every question asked of both principals and teachers about the internal climate of the school, the principals reported that the climate was better, and in all but one instance the difference between principals and teachers was significant. These differences hold, moreover, after taking the size of the school into account. In other words, principals do not give more favorable responses because they are out of touch with their schools. But the differences are not uniform across schools. They differ sharply between public and private. Public school principals are much further away from their staffs in their evaluations of the school climate than private principals. Public school principals are more likely to dress up the image of their school than their private counterparts. But of course, this should be expected. It is they, not private principals, who are forced by their environments to play the role of politicians.

Ultimately, the differences between the environments, structures, procedures, and types of leadership in the public and private schools are reflected among their respective staffs. Public principals provide less instructional leadership for teachers and less clear signals about school objectives. They also permit teachers less influence and control over their work. Teachers, for their part, assist each other less with their instruction, and in the end, toil in a less collegial atmosphere.

These are important organizational consequences not only for an understanding of public and private school performance but for an understanding of school effectiveness more generally. These aspects of the relationships between principals and teachers, and between teachers and their colleagues, bear directly on the educational process in the school, and are widely acknowledged to influence school performance. To the extent that public and private schools differ in these critical areas because they exist in different environments, we have the basis for an explanation of public and private school performance. To the extent that these characteristics of school effectiveness also vary, regardless of sector, with the complexity, constraint, control, and cooperativeness of the school environment, we have a foundation for understanding much more--the effective organization of American schools.

NOTES

1. Throughout this paper coefficients will be called statistically significant or simply significant if they satisfy a two-tailed t-test at a probability level of 0.05. The test is of limited use, however, in evaluating the "elite private" coefficients. Only 9 elite schools are included in the sample, and after weighting, they number next to zero. Their t-scores are therefore uniformly low. In any case, statistical inferences from these elite schools to a larger population are inappropriate because the elite schools were sampled with certainty (see Appendix A).

2. Recognizing this is not to say, however, that private parents exert unmeasurable influences on student achievement that make impossible the estimation of private school effects—something we plan to examine in subsequent analyses.

3. Private parents are not free from constraints in exercising their option to exit. Switching schools creates adjustment problems for children, and parents must take this into account. Nonetheless, it is less costly for private parents to switch schools than public.

4. Besides the top-ranked motivation of "taking on the challenge," other motivations that hold the same priorities for principals in different sectors include: "control over curriculum," and "control over personnel." Another motive, "assignment by superiors" ranks higher, on average, in the private sector. However, sharply bimodal distributions undermine general interpretations about private sector principals on this score.

5. This is based on data provided by only three-fourths of the sample to question SB053A in the original HSB data set that asked for district level expenditures per student. By this measure public expenditures were $1610 per pupil, Catholic expenditures, $1489, other private expenditures, $1850, and elite private, $1919.

6. Private schools may also offer merit pay; however, only the other private sector makes significantly greater use of it. Catholic schools do not differ from publics in providing merit pay.

7. Because of the way the HSB survey was drawn, this percentage, and all others that refer to proportions of schools in the population, should be interpreted as proportions of students attending schools with a given characteristic. In the public and Catholic sectors, however, these proportions should be close to the proportions of schools as well.

Table 1. The Relationships of Outside Authorities with Schools[1]

	Catholic		Other Private		Elite Private	
Absolute Influence						
Curriculum	-0.80	(-3.18)	-0.61	(-2.97)	-0.72	(-0.28)
Instruction	-0.75	(-2.43)	-0.10	(-0.39)	-0.71	(-0.22)
Discipline	-1.15	(-4.74)	-0.25	(-1.27)	-1.66	(-0.67)
Hiring	-2.15	(-9.23)	-0.92	(-4.86)	-2.84	(-1.18)
Firing	-2.01	(-9.92)	-1.36	(-8.26)	-2.34	(-1.13)
Influence vs. Principal						
Curriculum	-1.06	(-3.67)	-0.57	(-2.41)	-0.43	(-0.14)
Instruction	-0.68	(-2.45)	0.46	(2.03)	-0.59	(-0.21)
Discipline	-1.19	(-3.97)	-0.003	(-0.01)	-1.92	(0.62)
Hiring	-2.81	(-8.06)	-1.07	(-3.76)	-3.53	(-0.98)
Firing	-2.41	(-8.97)	-1.27	(5.82)	-2.76	(-1.00)
Freedom from Constraint	0.23	(0.80)	0.35	(1.52)	0.66	(0.23)
Cooperativeness	-0.09	(0.34)	0.36	(1.70)	0.91	(0.34)

[1] Table reports unstandardized coefficients and (t-scores) for dummy variable regressions in which the public sector is the baseline and the size of the tenth-grade class and the number of grades in the school are controlled.

Table 2. Parental Relationships with School[1]

	Catholic		Other Private		Elite Private	
Monitoring Students	0.58	(5.03)	0.24	(2.61)	0.79	(0.72)
Expectations of Students	1.30	(8.43)	1.16	(9.60)	2.54	(1.74)
Involvement in School	0.47	(3.85)	0.20	(2.08)	0.39	(0.33)
Cooperativeness	0.35	(2.23)	0.18	(1.36)	0.38	(0.23)
Cooperativeness, Controlled[2]	0.55	(3.21)	0.34	(2.46)	0.78	(0.48)
Freedom from Constraint	0.53	(2.72)	0.36	(2.26)	0.66	(0.33)

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[1] Table reports unstandardized coefficients and (t-scores) for dummy variable regressions in which the public sector is the baseline and the size of the tenth-grade class and the number of grades in the school are controlled.

[2] Additional controls include parental involvement (B=-.07, t=-.91) and parental expectations (B=-.23, t=-3.62)

Table 3. Principal Characteristics[1]

	Catholic		Other Private		Elite Private	
Teaching Experience	3.76	(2.19)	5.31	(3.92)	5.30	(0.32)
Motivations						
Control Policy	−0.65	(−1.89)	−0.68	(−2.44)	−0.48	(−0.14)
Prefer Administration	0.88	(2.44)	1.06	(3.62)	−0.26	(−0.07)
Further Career	1.76	(4.20)	1.21	(3.57)	0.92	(0.21)
Desire Advancement	−0.39	(−3.86)	−0.43	(−5.38)	−0.58	(−0.61)
Role Perception						
Managerial	−0.26	(−2.20)	−0.12	(−1.29)	−0.08	(−0.07)
Representational	−0.11	(−1.08)	−0.08	(−0.99)	−0.05	(−0.05)
Leadership Perceived by Teachers	0.39	(2.24)	0.75	(5.48)	0.60	(0.36)
Instructional Leadership	0.54	(3.87)	0.76	(6.82)	0.65	(0.48)

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[1] Table reports unstandardized coefficients and (t-scores) for dummy variable regressions in which the public sector is the baseline and the size of the tenth-grade class and the number of grades in the school are controlled.

Table 4. School Structure[1]

	Catholic		Other Private		Elite Private	
Goals						
Basic Literacy	1.78	(6.62)	0.96	(4.39)	1.59	(0.58)
Citizenship	0.95	(3.24)	1.25	(5.23)	1.09	(0.36)
Good Work Habits	0.81	(2.58)	0.37	(1.44)	0.20	(0.06)
Occupational Skills	0.83	(2.80)	0.71	(2.95)	0.82	(0.27)
Academic Excellence	-0.93	(-2.54)	-1.43	(-4.82)	-1.93	(-0.51)
Personal Growth	-1.70	(-4.78)	-0.76	(-2.63)	-1.22	(-0.33)
Human Relations Skills	-1.23	(-3.41)	-0.45	(-1.54)	0.19	(0.05)
General Graduation Requirements						
English and History	0.49	(2.97)	0.40	(3.07)	0.44	(0.28)
Science and Math	0.31	(1.64)	0.73	(4.90)	1.48	(0.82)
Foreign Language	0.86	(7.33)	1.13	(12.18)	2.25	(2.02)
School-wide Homework Policy	0.11	(1.07)	0.29	(3.57)	0.47	(0.46)
Goal Clarity	0.57	(3.32)	0.94	(6.97)	0.84	(0.52)
Goal Disagreement	-0.15	(-1.36)	-0.46	(-5.26)	-0.32	(-0.30)
Disciplinary Policy						
Ambiguity	-0.25	(-2.39)	-0.12	(-1.46)	-0.41	(-0.41)
Fairness & Effectiveness	0.84	(5.43)	1.01	(8.33)	1.63	(1.11)
Availability of Materials	0.53	(3.14)	0.54	(4.04)	1.30	(0.81)

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[1] Table reports unstandardized coefficients and (t-scores) for dummy variable regressions in which the public sector is the baseline and the size of the tenth-grade class and the number of grades in the school are controlled.

Table 5. Personnel Policy and Process[1]

	Catholic		Other Private		Elite Private	
Barriers to Hiring						
Too Many Transfers	-0.62	(-2.60)	-0.35	(-1.80)	-0.16	(-0.06)
Central Office Control	-0.63	(-2.16)	-0.04	(-0.17)	-0.34	(-0.11)
Barriers to Firing						
Complex Procedures	-0.84	(-2.71)	-2.41	(-9.57)	-2.19	(-0.69)
Tenure Rules	-1.75	(-4.83)	-2.44	(-8.29)	-2.78	(-0.75)
Hours to Fire	-21.3	(-3.71)	-17.5	(-3.77)	-21.7	(-0.37)
Percent Excellent Teachers	6.63	(1.76)	16.91	(5.70)	24.59	(0.69)
Teacher Absenteeism	-0.62	(-4.83)	-0.32	(-3.02)	-0.50	(-0.39)
Lowest Teacher Salary	-1761.6	(-3.82)	-1535.2	(-4.22)	1300.6	(0.30)
Highest Teacher Salary	-4368.2	(-3.94)	-928.1	(-1.06)	7507.0	(0.71)
No Tenure Offered	0.62	(9.17)	0.71	(13.4)	0.49	(0.76)
Percent Tenured Teachers	-16.37	(-3.10)	-11.47	(-2.76)	-10.27	(-0.20)
No Union	0.71	(10.03)	0.77	(13.83)	0.76	(1.13)

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[1] Table reports unstandardized coefficients and (t-scores) for dummy variable regressions in which the public sector is the baseline and the size of the tenth-grade class and the number of grades in the school are controlled.

Table 6. Staff Relations[1]

	Catholic		Other Private		Elite Private	
Principal-Teacher Relations	0.43	(2.44)	0.64	(4.69)	0.86	(0.52)
Teacher Influence & Control						
Student Behavior Codes	0.64	(4.42)	0.66	(5.61)	0.74	(0.50)
In-Service Programs	0.20	(1.17)	0.80	(5.65)	0.57	(0.32)
Ability Groupings	1.04	(6.72)	1.23	(9.81)	1.34	(0.84)
Curriculum	0.69	(4.86)	1.00	(8.70)	1.13	(0.77)
Text Selection	0.30	(2.94)	0.23	(2.78)	0.23	(0.22)
Topics Taught	0.17	(2.03)	0.27	(4.02)	0.10	(0.12)
Techniques	0.17	(3.39)	0.07	(1.76)	0.23	(0.45)
Discipline	0.56	(6.79)	0.09	(1.40)	0.26	(0.31)
Homework	0.20	(3.08)	-0.12	(-2.39)	-0.39	(-0.59)
Hiring	0.64	(2.27)	0.56	(2.43)	1.36	(0.47)
Firing	0.60	(2.23)	0.19	(0.86)	0.35	(0.13)
Routine & Paperwork Interference	-1.01	(-6.74)	-0.51	(-4.36)	-0.66	(-0.46)
Teacher-Teacher Relations						
Curriculum Coordination	0.46	(2.97)	0.89	(7.27)	1.01	(0.69)
Teaching Improvement	0.64	(3.70)	1.01	(7.45)	1.23	(0.75)
Collegiality	0.69	(5.47)	1.03	(10.41)	0.49	(0.41)

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[1] Table reports unstandardized coefficients and (t-scores) for dummy variable regressions in which the public sector is the baseline and the size of the tenth-grade class and the number of grades in the school are controlled.

Table 7. Differences in Principal and Teacher Responses to Common Items[1]

Item	Principal-Teacher Differences	Principal-Teacher Differences by Sector		
		Catholic	Other Private	Elite
Administration's Knowledge	1.11 (16.37)	−0.40 (−1.57)	−0.17 (0.87)	−0.39 (−0.16)
Staff Involvement	1.05 (16.46)	−0.48 (−2.10)	−0.38 (−2.10)	−0.55 (−0.25)
Staff Recognition	1.02 (13.90)	−0.62 (−2.37)	−0.37 (−1.80)	−0.24 (−0.10)
Experimentation Encouragement	0.84 (13.23)	−0.58 (−2.49)	−0.64 (−3.45)	−0.49 (−0.22)
Material Availability	0.66 (9.35)	−0.25 (−1.01)	−0.41 (−2.06)	−0.55 (−0.23)
Staff Cooperation	0.35 (6.75)	−0.24 (−1.24)	−0.07 (−0.45)	−0.03 (−0.01)
Routine Interference	0.34 (4.68)	−0.05 (−0.18)	−0.91 (−4.15)	−0.42 (−0.16)
Teaching Innovation	0.21 (3.51)	−0.32 (−1.46)	−0.48 (−2.76)	0.39 (0.19)
Staff Performance Standards	0.05 (1.01)	−0.02 (−0.12)	0.13 (0.91)	0.15 (0.09)

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[1] Table reports unstandardized coefficients and (t-scores) for dummy variable regressions in which the public sector is the baseline and the size of the tenth-grade class and the number of grades in the school are controlled.

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STATEMENT

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PRINCE GEORGE'S COUNTY PUBLIC SCHOOLS
PRINCE GEORGE'S COUNTY, MARYLAND

THE "WORKPLACE SCHOOL"

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

OCTOBER 22, 1985

GOOD AFTERNOON. I THANK THE COMMITTEE MEMBERS FOR THE OPPORTUNITY TO SHARE WITH THEM THE CONCEPT OF THE "WORKPLACE SCHOOL" NOW IN OPERATION IN THE PRINCE GEORGE'S COUNTY, MARYLAND, SCHOOL SYSTEM.

I THINK IT WOULD BE SAFE TO SAY THAT MOST OF THE PEOPLE IN THIS ROOM THIS AFTERNOON IN THEIR EARLY SCHOOL DAYS, WENT TO WHAT IS COMMONLY REFERRED TO AS A NEIGHBORHOOD SCHOOL; THAT IS, A SCHOOL THEY WALKED TO, ONE WHERE THEY COULD COME HOME FOR LUNCH TO TOUCH BASE WITH AT LEAST ONE PARENT AND, IN ESSENCE, IT WAS A SCHOOL THAT WAS A VITAL AND VIABLE PART OF THE COMMUNITY LIFE.

THAT ORGANIZATIONAL STRUCTURE WAS CREATED TO MEET THE NEEDS OF THE TYPICAL AMERICAN FAMILY--AN AT HOME MOM, A WORKING DAD AND TWO CHILDREN. TODAY ONLY 17% OF THE FAMILIES SERVED BY PUBLIC SCHOOLS RESEMBLE THAT IMAGE. 83% ARE CONSIDERABLY DIFFERENT. OVER 1/3 OF OUR CHILDREN LIVE IN A SINGLE PARENT HOME AND OF THAT GROUP ALL BUT 3% LIVE WITH A SINGLE FEMALE PARENT.

APPROXIMATELY 35% OF THE CHILDREN ATTENDING PUBLIC SCHOOLS TODAY HAVE BOTH OF THEIR PARENTS WORKING. TWO FUNCTIONS OF EDUCATION IN THIS COUNTRY ARE, FIRST, TO PREPARE THE STUDENTS IN OUR CHARGE SO THAT THEY CAN COMPETE AND ADAPT

IN THE SOCIETY IN WHICH THEY LIVE; AND SECOND, TO ADAPT THE EDUCATION SYSTEM ITSELF TO THE SOCIETAL CHANGES THAT ARE GOING ON AROUND US CONTINUALLY.

I CONTEND THAT IT IS TIME FOR US TO RE-EXAMINE THE ORGANIZATIONAL STRUCTURE KNOWN AS THE "NEIGHBORHOOD SCHOOL." ITS PURPOSE WAS TO KEEP THE STUDENTS CLOSE TO HOME WHERE THE PARENT COULD WATCH OVER THEM, BE AVAILABLE IN CASE OF EMERGENCY, AND REINFORCE THE LEARNING THAT TOOK PLACE DURING THE SCHOOL DAY. THE IMPORTANT LINKAGE TO SUPPORT THAT LEARNING BETWEEN HOME AND SCHOOL WAS THAT "ADULT AT HOME." IT MADE SENSE FOR THE FAMILY THAT IT WAS DESIGNED TO SERVE BUT WE ARE NO LONGER SERVING THAT "TYPICAL AMERICAN FAMILY" IN OUR PUBLIC SCHOOLS.

AS THE STATISTICS POINT OUT, AN EVER INCREASING NUMBER, IN FACT, A MAJORITY OF THE YOUNG PEOPLE ATTENDING SCHOOLS EITHER RETURN TO AN EMPTY HOME AT THE END OF THE DAY OR RECEIVE DAY CARE SERVICES THAT VARY IN THE QUALITY IN DIRECT PROPORTION TO THE PARENT'S ABILITY TO PAY. I BELIEVE THAT ONE OF THE FACTORS CONTRIBUTING TO A DECLINE IN ACHIEVEMENT IS THE ABSENCE OF QUALITY INTERACTION BETWEEN THE HOME AND THE SCHOOL, AND AS WE REDESIGN THE ORGANIZATIONAL STRUCTURE OF OUR INSTITUTIONS FOR THE FUTURE, WE MUST KEEP THE NEED FOR THAT QUALITY INTERACTION AS ONE OF OUR PRIMARY OBJECTIVES. WE HAVE ADDRESSED THAT PROBLEM IN PRINCE GEORGE'S COUNTY.

THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM PROVIDES EXTENDED DAY SERVICES DURING THE SCHOOL YEAR FOR CHILDREN ENTERING GRADES ONE THROUGH SIX AT WORKPLACE SCHOOLS. THEY OPERATE FROM 7:00 A.M. TO THE COMMENCEMENT OF SCHOOL AND FROM THE END OF REGULAR SCHOOL TO 6:00 P.M. DAILY.

CHILDREN ENROLLED IN THE WORKPLACE PROGRAM MUST ALSO ATTEND THE REGULAR DAY PROGRAM OFFERED AT THAT SCHOOL. ALL CHILDREN WHO LEGALLY RESIDE WITHIN THE SCHOOL'S ATTENDANCE AREA ARE ELIGIBLE FOR ENROLLMENT IN THE WORKPLACE PROGRAM AS WELL AS A NUMBER OF STUDENTS OUTSIDE THE ATTENDANCE AREA CHOSEN IN A RANDOM SELECTION DRAWING DESIGNED TO ENHANCE THE RACIAL BALANCE OF THE SCHOOLS.

THE PURPOSE OF THE WORKPLACE SCHOOL IS TO PROVIDE THE WHOLESOME, FULFILLING AND QUALITY PROGRAM TO ENHANCE THE CHILD'S SOCIAL, EDUCATIONAL AND PERSONAL DEVELOPMENT AND TO MEET THE NEEDS OF A SAFE ENVIRONMENT FOR CHILDREN OF WORKING PARENTS. SPECIFICALLY, THE PROGRAM GOAL IS TO EXPOSE STUDENTS TO VARIOUS ENRICHING ACTIVITIES WHILE PROVIDING THEM A SAFE ENVIRONMENT. PARENTS ARE ENCOURAGED TO VISIT ANY

TIME DURING THE HOURS OF OPERATION AND PARTICIPATE IN OUR ACTIVITIES. ACTIVITIES OFFERED IN OUR EXTENDED DAY INCLUDE DANCE, MUSIC, ARTS AND CRAFTS, COOKING, SEWING, TECHNOLOGY EDUCATION, COMPUTER LAB, AND MORE. EACH OF THESE ACTIVITIES DEALS WITH THE SPECIFIC LEARNING NEEDS OF THE CHILD AS IDENTIFIED BY THE REGULAR CLASSROOM TEACHER.

PROGRAM OBJECTIVES

I. FOCUS ON THE CHILD
  A. TO PROVIDE A HEALTHY LIVING ATMOSPHERE BY CREATING WARM, TRUSTING RELATIONSHIPS BETWEEN THE CHILDREN AND THE STAFF.
  B. TO NURTURE A SENSE OF INDEPENDENCE WITHIN EACH CHILD BY PROVIDING DECISION-MAKING EXPERIENCES TO PROMOTE SELF-DISCIPLINE.
  C. TO DEVELOP AND PROMOTE A POSITIVE SELF-CONCEPT.
  D. TO HELP CHILDREN LEARN HOW TO GET ALONG WITH OTHERS, RECOGNIZING THE DIFFERENT VALUES AND ATTITUDES OF OTHERS.
  E. TO OFFER OPPORTUNITIES WHICH WILL HELP DEVELOP AN INDIVIDUAL'S CREATIVITY AND TALENTS.
  F. TO MAXIMIZE THE CHILD'S LEARNING POTENTIAL BY BUILDING LINKAGES BETWEEN THE PARENT AND THE SCHOOL.

II. FOCUS ON THE PARENT
   A. TO MAKE PARENTS FEEL CONFIDENT THAT THEIR CHILDREN HAVE BEEN LEFT IN A SAFE, HEALTHY, HAPPY AND STIMULATING ENVIRONMENT.
   B. TO CREATE AN OPEN RELATIONSHIP BETWEEN PARENTS AND STAFF WHICH WILL PROMOTE POSITIVE INTERACTIONS CONCERNING CHILDREN.
   C. TO PROVIDE AN ENVIRONMENT IN WHICH PARENTS CAN NURTURE MORE POSITIVE AND PRODUCTIVE RELATIONSHIPS WITH THEIR CHILDREN.

PARENTS DROP THEIR CHILDREN OFF IN THE MORNING AT POINTS WHICH ARE DESIGNATED TO ENSURE THAT CHILDREN WALK SAFELY INTO THE SCHOOL BUILDINGS. IN THE AFTERNOON, PARENTS ARE REQUIRED TO ENTER THE SCHOOL BUILDING TO PICK UP THEIR CHILDREN FROM THE PROGRAM.

THERE IS A NOMINAL FEE TO THE PARENTS FOR THIS EXTENDED DAY PROGRAM THAT CAN BE PAID ON A MONTHLY OR SEMI-MONTHLY BASIS. DAILY PROGRAM SERVICES TERMINATE AT 6:00 P.M.

SOME MAY QUESTION WHERE THE LINE IS DRAWN BETWEEN CHILD CARE AND EDUCATION. LET THERE BE NO DOUBT WHERE I STAND

ON THIS ISSUE. WE HAVE TALKED ABOUT THE CHILD THAT RETURNS HOME TO AN EMPTY HOUSE WITHOUT THE BENEFIT OF POSITIVE REINFORCEMENT TO HIS LEARNING DAY--AN EDUCATIONAL PROBLEM IN THE MAKING. THE EXTENDED DAY WORKPLACE PROGRAMS ARE THOROUGHLY EDUCATIONAL. WE ARE NOT TALKING ABOUT A BABY SITTING SERVICE. WE ARE TALKING ABOUT SOMETHING THAT ENHANCES EDUCATION AND PRODUCES LARGE BENEFITS IN THE CLASSROOM.

THIS IS NOT PIE IN THE SKY. EIGHT YEARS AGO I DESIGNED A PROGRAM SIMILAR TO THIS IN NORTH CAROLINA IN RESPONSE TO PARENTAL DEMAND AND WE HAD AMPLE TIME TO SEE THE ADVANTAGE THESE CHILDREN HAD OVER OTHERS. THERE IS NO QUESTION OF ITS EDUCATIONAL VALUE. PROGRAMS RUN BY PRIVATE ORGANIZATIONS ARE BEYOND THE CONTROL OF THE SCHOOL AUTHORITIES. UNDER THOSE CIRCUMSTANCES WE ARE NOT IN A POSITION TO SUPERVISE STAFFING AND WE CANNOT BE SURE OF THE QUALITY OF PROGRAMS OFFERED. THE WAY WE ARE DOING IT, WE ARE IN CONTROL ON BOTH COUNTS.

IN THE PRINCE GEORGE'S PROGRAM, TEACHERS ARE ALL CERTIFIED, EITHER IN ELEMENTARY OR EARLY CHILDHOOD EDUCATION. THERE IS A RATIO OF SIX PUPILS PER ADULT--

FAR LOWER THAN 28 TO 30 IN THE ORDINARY SCHOOL--AND TEACHERS HAVE AIDES WHO OFTEN ARE UNIVERSITY OR HIGH SCHOOL STUDENTS PLANNING TO STUDY CHILDHOOD EDUCATION.

IN EACH SCHOOL, THE PROGRAM IS SET: A PERIOD FOR DOING HOMEWORK, SEWING, MUSIC, SCIENCE, COOKING, ART, INDUSTRIAL ARTS, PHYSICAL EDUCATION AND COMPUTERS. MUSIC WILL INCLUDE PIANO INSTRUCTION, TAP AND BALLET DANCING. PUPILS DO NOT GET EACH ACTIVITY EVERY DAY, BUT IN A PERIOD OF THREE WEEKS, THEY ARE EXPOSED TO ALL OF THEM.

THE USUAL SCHOOL DISCIPLINE IS RELAXED. CHILDREN MAY ARRIVE ANY TIME BETWEEN 7 AND 7:45, WHEN THEY MOVE ON TO THEIR REGULAR SCHOOL CLASS; AND PARENTS MAY PICK THEM UP ANY TIME BETWEEN 2 AND 6:00 P.M. THE PROGRAM WILL FUNCTION EVEN WHEN THE SCHOOLS ARE CLOSED BY INCLEMENT WEATHER, AS WELL AS DURING NORMAL SCHOOL VACATIONS.

WHILE PARENTS ENJOY THE CONVENIENCE, MANY ARE MORE CONCERNED THAT THEIR CHILD IS USING HIS TIME PRODUCTIVELY.

A FEE OF $27.50 COVERS MOST OF THE PROGRAM COSTS.

IN SPITE OF THE EDUCATIONAL STRUCTURE, THERE IS A GREAT DEAL OF EMPHASIS AMONG STAFF ON PROVIDING A GENIAL LOVING RECREATIONAL ENVIRONMENT.

WE DON'T WANT THE CHILD TO SEE THIS AS AN EXTENSION OF SCHOOL, RATHER AS A SUBSTITUTE FOR HOME WITH THE LOVING CARE A PARENT WOULD PROVIDE. BECAUSE SOME OF THESE CHILDREN WILL BE IN THE BUILDING FROM 7:00 IN THE MORNING TO 7:00 AT NIGHT, IT IS IMPORTANT THAT IT BE AN ENJOYABLE EXPERIENCE.

MAKE NO MISTAKE ABOUT WHAT WE INTEND TO ACCOMPLISH HERE. WE ARE NOT INTERESTED IN USURPING THE PARENTS ROLE BUT RATHER REINFORCING THE EDUCATION EXPERIENCE TO ENHANCE THE PRECIOUS QUALITY TIME WHEN THE PARENTS AND CHILDREN ARE TOGETHER. THE BUSINESS COMMUNITY HAS BEEN VERY POSITIVE IN THEIR RESPONSE, A RELAXED AND HAPPY PARENT IS A BETTER EMPLOYEE. THEY HAVE EXPRESSED A WILLINGNESS TO HAVE EMPLOYEES THAT ARE PARENTS OF CHILDREN IN A NEARBY WORKPLACE SCHOOL PARTICIPATE IN SCHOOL PROGRAMS AND ATTEND PARENT/TEACHER CONFERENCES DURING THE WORK DAY.

IN A RECENT NEWSLETTER FOR ADULT AND COMMUNITY EDUCATORS, A PUBLICATION OF THE MARYLAND STATE DEPARTMENT OF EDUCATION, DR. ROBERT SLATER IN A REVIEW OF THE PROPOSED PROGRAM SAID:

"THE WORKPLACE SCHOOL IS SO CALLED BECAUSE IT IS A SCHOOL DESIGNED WITH THE AMERICAN WORKPLACE IN MIND. IT IS BUILT ON THE PREMISE THAT WORK, HOME AND SCHOOL ARE CLOSELY KNIT AND THAT WHAT HAPPENS IN ONE INFLUENCES LIFE IN THE OTHERS. IT IS ORGANIZED TO TAKE INTO ACCOUNT RECENT CHANGES IN THE CHARACTER OF AMERICAN WORK AND THEIR IMPACT ON THE HOME AND SCHOOL. ITS EXTENDED DAY CARE COMPONENT IS DESIGNED TO ADDRESS A PROBLEM CAUSED BY THE RELATIVELY SUDDEN INCREASE IN THE AMERICAN WORKPLACE OF THE NUMBER OF WORKING MOTHERS AND SINGLE PARENTS. BY OFFERING QUALITY DAY CARE, THE WORKPLACE SCHOOL PROMISES TO CONTRIBUTE TO THE EDUCATIONAL EFFICIENCY AND EFFECTIVENESS OF PRINCE GEORGE'S COUNTY PUBLIC SCHOOLS."

LADIES AND GENTLEMEN, WHO AM I TO ARGUE?

The Magnet Schools

A principal feature of the five-year comprehensive plan by the Board of Education to further desegregate the Prince George's County Public Schools is the implementation of the magnet alternative schools. These programs are designed to offer previously unavailable and highly specialized educational services in assisting schools to comply with existing desegregation guidelines.

For more information about the Magnet School Program of the Prince George's County Public Schools, contact the Office of Public Affairs and Communications, 14201 School Lane, Upper Marlboro, MD 20772 ☆ (301) 952-4350.

THE WORKPLACE MAGNET SCHOOLS

PRINCE GEORGE'S COUNTY PUBLIC SCHOOLS

Board of Education
Prince George's County

Mr. Angelo I. Castelli, *Chairman*
Mrs. Sarah J. Johnson, *Vice Chairman*
Mrs. Doris A. Eugene, *Member*
Mrs. Lesley Kreimer, *Member*
Mrs. Catherine M. Burch, *Member*
Mr. Thomas R. Hendershot, *Member*
Mr. Paul Shelby, *Member*
Mrs. Barbara F. Martin, *Member*
Mr. Norman H. Saunders, *Member*
Miss Hope Butler, *Student Member*

John A. Murphy
Secretary-Treasurer and *Superintendent of Schools*

Paul M. Nussbaum
Attorney to the Board

Introducing the Workplace Magnet Schools

THE WORKPLACE SCHOOL is essentially an elementary school that offers extended day academic services to children of working parents and complements that program with additional educational resources during the regular school day. Located near high employment centers or along major traffic routes, the schools will offer an attractive assortment of early morning and afternoon instruction and enrichment programs coupled with supervised services in recreation, field trips and other educational experiences for a modest fee of $27.50 per week.

Each Workplace School will be staffed with a classroom teacher-coordinator, teacher aides, student assistants and health aide. The student-to-staff ratio in the extended day program of the Workplace Schools will be 6-to-1, the smallest of any program in the school system.

EACH SCHOOL WILL ALSO have a full computer lab, extensive audiovisual and instrumental music equipment, and substantial classroom materials and supplies. The afternoon component of the Workplace School is expected to operate as a fully self-sustaining center within the school.

The schools will operate from 7 a.m. to 6 p.m. Monday through Friday, with observances for certain school holidays. Parents will be responsible for student transportation to and from school.

Enrollment in each center will be based on parental applications for children in grades 1-6, with racial percentage controls necessary to stay within desegregation guidelines. Parents will be able to select schools on the basis of employment or transportation considerations, regardless of personal residence within the county.

The Highlights

- ★ Programs for after-school instruction that concentrate on academic reinforcement, advancement, remediation and enrichment.
- ★ Operating hours from 7 a.m. to 6 p.m. Monday through Friday during the school year except for certain school holidays.
- ★ Supervised homework centers.
- ★ Special mini-courses using full computer labs and equipment.
- ★ Special science and math instruction.
- ★ Additional reading instruction.
- ★ Instrumental music instruction, including beginner and intermediate piano.
- ★ Beginner dance instruction in tap and ballet.
- ★ Programs in art and electronic media.
- ★ Programs in home economics, including sewing and cooking, and safety skills.
- ★ Supervised recreation and snack periods.
- ★ Supervision by a certified teacher and qualified adults, with a student-to-adult staffing ratio of 6-to-1.
- ★ Fee of $27.50 per week.
- ★ Transportation by parent on the way to work in the morning and on the way home from work in the late afternoon.

Registration

To register a child for the Workplace School, complete a registration form available in each school or from the Director of Magnet Schools, 14201 School Lane, Upper Marlboro, MD 20772 ☆ (301) 952-4706.

The Schools

Apple Grove Elementary
7400 Bellefield Ave.
Oxon Hill (248-4004)
Mrs. Alice Luckey, Principal

Ardmore Elementary
9301 Ardmore Rd.
Landover (322-2110)
Mr. Robert Estep, Principal

Kettering Elementary
11000 Layton St.
Kettering (336-6777)
Mrs. Lucy W. Marr, Principal

Longfields Elementary
3300 Newkirk Ave.
Forestville (736-6671)
Mr. Dorsey Scofield, Principal

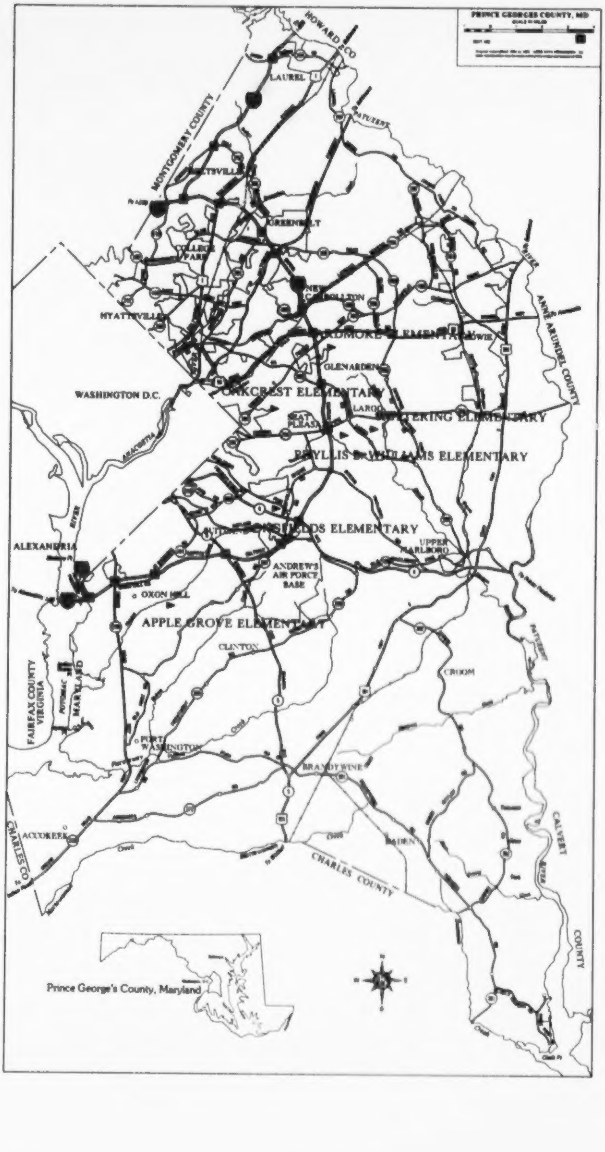
Oakcrest Elementary
929 Hill Rd.
Landover (336-8020)
Mr. James L. Chase, Principal

Phyllis E. Williams Elementary
9601 Prince Pl.
Largo (336-3303)
Mr. Patrick J. McGraw, Principal

The Workplace Magnet Schools

1985-86

THIS MAP DISPLAYS the general locations of the six elementary schools with the new extended-day academic program, known as the Workplace School. Students may enroll in any one of these schools, regardless of personal residence within the county. Parents will be able to select schools on the basis of employment or transportation considerations. Enrollment will be controlled according to desegregation guidelines. For more information about the specific locations of these schools, contact the Office of Pupil Accounting and School Boundaries, 14201 School Lane, Upper Marlboro, MD 20772 • (301) 952-4390.


PRINCE GEORGES COUNTY, MD
HOWARD CO
LAUREL
MONTGOMERY COUNTY
PATUXENT
BELTSVILLE
GREENBELT
COLLEGE PARK
HYATTSVILLE
NEW CARROLLTON
ARDMORE ELEMENTARY
BOWIE
GLENARDEN
WASHINGTON D.C.
OAKCREST ELEMENTARY
LARGO
SEAT PLEASANT
KETTERING ELEMENTARY
PHYLLIS E. WILLIAMS ELEMENTARY
ANACOSTIA
ANNE ARUNDEL COUNTY
RIVER
ELEMENTARY
UPPER MARLBORO
ALEXANDRIA
ANDREW'S AIR FORCE BASE
OXON HILL
APPLE GROVE ELEMENTARY
CLINTON
CROOM
FAIRFAX COUNTY VIRGINIA
POTOMAC
MARYLAND
PORT WASHINGTON
BRANDYWINE
ACCOKEEK
BADEN
CHARLES COUNTY
CHARLES CO
CALVERT
COUNTY
Prince George's County, Maryland

SCANLON & HASTINGS
A MANAGEMENT SERVICES GROUP
3303 SOUTH FIFTH STREET
ARLINGTON, VIRGINIA 22204
—
(703) 486-1049

JOHN W. SCANLON
—
ANNE H. HASTINGS

STATEMENT OF ANNE H. HASTINGS
SENIOR PARTNER
SCANLON & HASTINGS/A MANAGEMENT SERVICES GROUP

BEFORE THE

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

COMMITTEE ON GOVERNMENTAL AFFAIRS

U. S. SENATE

OCTOBER 22, 1985

Scanlon & Hastings

A Management Services Group

THE SERVICES

Managers often find themselves in situations where they must make strategic decisions they know will affect the performance and future of their organizations. The action can be forced by outside events or by the manager's own vision. Frequently, the stakes are high and the ground unfamiliar.

Scanlon & Hastings is a management services firm created to help clients make and implement such decisions. Working closely with management, we diagnose the problem, find answers that fit the organization, and help put the solution in place.

Our projects are tailored to meet the needs of each client. To assure this match, we are organized to provide five types of management services.

TECHNICAL ASSISTANCE IN PROBLEM SOLVING AND CRISIS MANAGEMENT FOR PROJECT MANAGERS

These are projects where management has a serious operational problem that must be solved in a short time frame. Scanlon & Hastings has experience in organizing outside teams to solve the problem or, when in-house staff have responsibility for the work, in providing technical assistance and support.

DEVELOPMENT OF NEW PRODUCTS AND SERVICES

Organizations are often faced with the need to redesign their services or develop new product lines. Scanlon & Hastings will carry out the market *and* product development required by such efforts and facilitate the internal decision making process for the client.

PROGRAM EVALUATION, PERFORMANCE MONITORING SYSTEMS

A key part of any management system is the evaluation component, the processes that provide information on organizational and individual performance. Many strategic changes begin with an evaluation of current programs and policies. Scanlon & Hastings can produce evaluative information for clients quickly and inexpensively as well as design and install evaluation systems.

RESEARCH ON MANAGEMENT PRACTICES

Scanlon & Hastings have been asked to research the state-of-the-art in management practice by clients considering changes in management approach. These studies document and analyze "best" practices in both traditional and innovative settings. An assessment is made to determine which approaches are likely to achieve management's goals. The work can give an organization confidence in its management approach or the guidance needed to alter it.

TECHNICAL ASSISTANCE IN STRATEGIC MANAGEMENT

Organizations often seek assistance when they are about to develop new goals and missions. Any decision must be supported by practical implementation strategies and management consensus. Scanlon & Hastings will develop the information and decision processes an organization needs to produce an effective blueprint for the future.

Mr. Chairman and Members:

My name is Anne Hastings. I am a senior partner in the firm of Scanlon & Hastings/A Management Services Group, which provides management consulting services to public and private sector organizations.

I appreciate this opportunity to appear before the Committee to discuss the issue of expanding choice in education and want to commend you for your attention to this particular issue.

I come before you as a student of the program strategies that the federal government has put into place to influence the delivery of education and health care services. I have also worked closely with managers of federal education and health care programs to design evaluation systems that will help improve the operations of those programs.

The message I wish to convey today is that Congress has at its disposal a number of alternative program strategies that could be used to expand parental and student choice in education and to maximize education alternatives. There are vouchers, loans, loan guarantees, tax expenditures, grants, and social insurance mechanisms, to name just a few. All of these strategies have been used before -- if not in elementary and secondary education, then in health care or in postsecondary education. Prior to selecting any specific instrument, however, Congress must understand and assess how the choice of a program strategy will influence the operation and effects of that program.

Let me take just a moment to discuss this relationship between strategy and outcome. Each strategy carries with it certain normative assumptions about the most appropriate role for government, about the proper relationship between the public and private sectors of the economy, and about how the federal government can best pursue its ends. For instance, consider the strategy of direct grants or vouchers to individuals. This strategy assumes that private provision of services is preferable to government provision so long as individuals can be assured access to the market. It assumes that the market works best when individual consumers are given a large degree of choice. It assumes that consumers have, and know how to use, the information they need to make those choices. And, it assumes that the more direct the relationship between the government and the citizen, the better.

The alternative strategy of giving grants to state governments, on the other hand, reflects the assumptions that public provision of services is frequently preferable to private provision, that state and local governments rather than the federal government are the appropriate units of government to deliver human services, and that the federal government can ensure an adequate level of particular services by providing these governments with additional resources and some direction.

In addition, the program strategy that is selected in designing a federal program will be an important determinant of program performance. In fact, the following questions can be asked of each strategy, and the answers are likely to be different for each:

- How easily can Congress control the costs of the program?
- Can the program's benefits be easily directed to the intended beneficiaries?
- How much administrative control can the implementing agency retain over the direction and effects of the program?
- How will the program affect the nation's economy?
- What will be the effects of the program on other levels of government or other institutions or specific beneficiary groups?
- What are some of the unintended effects likely to be?

Twenty years ago, there were no answers to these questions. Congress was beginning to experiment for the first time with many of the strategies or, even if the strategy had been in use for some time, no one had systematically studied its consequences.

Today the picture is different. Even though some of the strategies discussed today have never been tried in elementary and secondary education, they have been tried in other areas, and we know how they have operated. Vouchers are an example. We know much about how they are likely to operate because of our experience with voucher-like payments distributed by the Pell Grant program, which students use to purchase the educational services of their choice. We know, for instance, that two of the presumed advantages of the voucher strategy -- ease of administration and minimal government intervention in the market -- did not pan out as expected. Determining eligibility for the Pell Grants and making the correct payment turned into something close to an administrative nightmare. Moreover, we discovered that in order to protect students from programs that did not deliver what they promised, the federal government had to intervene in the market to specify standards for eligible services.

A similar outcome developed with the Medicare program. Congress thought that by reimbursing the cost of health care services for the elderly, it could avoid becoming entangled in the private provision of health care services. But we found instead that the federal government had to intervene in the functioning of the health care market in an attempt to control rising health care costs, especially the federal share of those costs.

Today, we know from our experience with the medical expenses deduction and other similar programs that the tax expenditure strategy can confuse and complicate legislative policymaking because such programs are not considered in conjunction with direct spending programs and they typically bypass the normal budgetary processes. We have learned that to the extent a tax expenditure is easy to administer, it is usually because a decision has been made not to be concerned with errors or deliberate fraud in reporting. And, finally, as often as not, we have watched as tax expenditure programs have exhibited perverse or unintended distributional effects. For instance, the medical expenses deduction has historically not offered aid to individuals in the poorest segment of society because they pay little or nothing in taxes.

We also know today that the credit strategy brings with it a separate set of problems. For instance, as instances of institutional fraud in the Guaranteed Student Loan program began receiving more attention, Congress and program managers were faced with a dilemma: the only clear alternative to delegating responsibility for accrediting postsecondary education institutions was for the government to do the monitoring itself -- a regulatory task that policymakers had hoped to avoid specifically by adopting the loan guarantee strategy. Additionally, time and again the federal government has discovered that its credit programs either have resulted in high default rates or they have unintentionally locked out potential borrowers during periods of tight credit.

The Health Maintenance Organization (HMO) loan and local guarantee program provides another example of the use of the credit strategy. That program was designed to help maximize consumer options by encouraging the growth and development of an alternative service delivery institution. HMO loans were set up to help fledgling HMOs sustain operating losses through their first five years. In 1981, the Office of Health Maintenance Organizations reported that fourteen HMOs with federal loans had failed, resulting in a loss of $27 million. The Office of Management and Budget estimated the default rate at 25 percent in 1982, a rate that was expected to increase significantly in the next several years. Moreover, in their efforts to protect the federal investment in HMOs and to assist HMO loan recipients in maintaining their financial viability, federal program managers were unavoidably pulled into the management details of individual HMOs. This pressure to protect the federal investment against default by instituting more stringent administrative controls is a common tendency in programs using the credit strategy.

In short, we know what many of the consequences of adopting one strategy or another have been. We also have reason to believe that the operational consequences of adopting tax credits or vouchers or loans or grants in elementary and secondary education are likely to be very similar to the consequences of adopting those same strategies in health or postsecondary education. The three service delivery systems have many characteristics in common. In each, there are both public providers and private providers. Within the public sector of each system, primary responsibility for service delivery rests not with the national government, but with fifty state governments and thousands of local governments. Moreover, the extensive diversity and structural decentralization of the three systems are features that many believe have contributed to the quality of service delivery -- and hence are features that must be protected.

Additionally, in all three systems, professionals -- i.e., teachers, professors, and doctors -- constitute the principal service deliverers. Not surprisingly, these professionals are quite jealous of their autonomy. They consider professional expertise to be another value that must, like decentralization and diversity, be balanced against broader national values such as equality of access to services.

Given these similarities, there is reason to expect that the experience with a particular strategy in one of the three areas will provide lessons regarding how the same strategy might operate in another of the areas. This is an expectation that time and research has, for the most part, borne out.

On the other hand, we must be careful not to minimize the importance of the institutional context in which a program operates. Despite their similarities, there are important differences between the elementary and secondary education arena and the health arena, differences that will also influence the operation of the strategies. A reasonable approach to this problem is to look first to experience in health and postsecondary education, as well as in other areas, to identify the most promising strategies for maximizing educational choice and educational alternatives. But then we might be best served by pilot testing one or more of the program strategies in some small segment of the elementary and secondary education system before we assume that the strategy will indeed operate as we have anticipated it will.

To summarize, let's use what we already know from other policy areas and then proceed with caution to test this knowledge out in the education setting. Again, thank you for giving me the opportunity to testify on this important issue.

Testimony Submitted to the United States Senate Subcommittee On Intergovernmental Relations Regarding "Expanding Choice in Education"

by

Lewis W. Finch, Superintendent
Anoka-Hennepin District No. 11
Coon Rapids, Minnesota

Those who espouse choice in America's public schools create the illusion that with vouchers in hand all students will have access to excellence in education. In fact, vouchers pose a real threat to the basic mission of public schools i.e., equal opportunity for all. The prospect of all students having access to excellent education programs through a voucher system is a cruel hoax. Unless we are willing to divert substantial amounts of money from instruction to transportation, access to excellence in education will be determined by geography. The obvious result is likely to be an even greater disparity in the quality of education accessible to students.

There is a noticeable lack of documented experience and research to show that vouchers will improve learning for the majority of America's elementary and secondary students. However, there exists a substantial body of knowledge based on research and documented experience that shows what will improve learning in our public schools. Unrestricted choice (vouchers) has not been identified as one of the factors contributing to effective schools.

Are we willing to accept the distinct possibility of our states divided into pockets of educational excellence surrounded by wastelands of educational deprivation? Vouchers are intended to divert funds from one school district to another chosen by the student and/or parent. By diminishing the capacity of some school districts to provide programs and services, vouchers pose a real threat to equal educational opportunity for all students. There is substantial evidence to suggest the need for more effective and efficient organization of many school districts; however, waging a war of attrition on certain schools by allowing parents to take funds to other schools is not the way to improve education for the majority of students.

Advocates of vouchers are fond of expounding on their belief that "competition with private schools will improve public schools," citing the success of American business in a free enterprise system. They fail to note that the majority of businesses started in this country fail or that playing by a different set of rules often places certain businesses at a distinct disadvantage, as evidenced in the competition with foreign companies. Many private corporation executives have much to learn from public school administrators about efficiency of operation. Public schools have worked miracles under severe constraints, not the least of which is the inability to control the raw material (not that public schools should ever be granted such control).

Democratic forms of government in a free market economic system certainly require choice; however, for survival individuals must be restricted to those choices which are not likely to adversely effect themselves or others. **Is it proper to foster private choices in education at public expense without regard to the effect on other students?** The potential harm to the majority of students by allowing unlimited choice (vouchers) in public schools, where public money chases students, greatly exceeds the potential overall good.

Considerable effort has been exerted at federal and state levels to minimize abuse of children, yet **we have inherent in the proposed voucher systems the opportunity for educational abuse under the guise of choice.** Choice has been used to circumvent laws and regulations governing such issues as equal employment opportunity, due process, desegregation, religious activities, licensure, and the list goes on. Others simply see educational vouchers as a route to promote their own personal brand of social order, political, and/or religious convictions.

Most public schools actively promote maximum parental involvement in decisions affecting the education of their children. Considerable evidence is available suggesting that left to their own initiative, but a few parents and students are willing or able to make wise choices about elementary-secondary education. A great deal of guidance and direction from professional educators is desirable and often necessary. One concern identified in a number of national studies is the plethora of choices currently available in public schools leading to poor decisions by parents and students. The reaction has been to increase the number of mandatory courses in public schools and colleges.

Initial information regarding Minnesota's recently adopted post-secondary option plan validates the concerns of those who view vouchers as a threat to equal opportunity.

- Parents are, quite understandably, attracted to the promise of "free" college tuition. Consideration of the student's psychological maturity or academic potential is often of little consequence.

- Students are enrolling in college credit courses which have little more, and frequently less, rigor than those available in their high school.
- High schools are dropping advanced courses due to insufficient enrollment - which may result when as few as three to six students leave - thus, larger numbers of high school students are denied access to the courses.
- Students are not required to notify local schools of their intent to enroll in post-secondary classes, leaving local districts legally encumbered with staff and diminished financial resources.
- Students are opting for post-secondary classes to avoid more stringent attendance and behavior standards enforced in high school.
- Students residing in small rural communities, where limited options are available in high schools, are also geographically isolated from post-secondary instructions.
- Out-of-state students have purportedly moved in with relatives or friends, enrolled in the local public high school, and immediately opted into "free" post-secondary classes.

The inherent weakness of unrestricted choice, the impact of geography on access, the deterioration of quality curricular offerings, and the blatant abuse of the options all evidenced in Minnesota should serve as a keen warning to those who champion widespread use of vouchers.

All reasonable efforts to improve public schools have not been exhausted. Given current information about effective schools and the available technology we can provide access to educational excellence for all students. There is little reason to abandon the basic structure of American public schools in favor of vouchers.

The primary effort of state government should be directed at strengthening public schools. Vouchers are not the answer. More efficient organization of local school districts, adequate funding to provide a full range of opportunities for all students, and a system to hold local school districts accountable for results are lofty goals to achieve excellence. Revision and/or repeal of laws and regulations which divert precious resources, (time and money), from instruction will be an excellent first step.

LF/ay/DaB1

MINNESOTA FEDERATION
OF
CITIZENS FOR EDUCATIONAL FREEDOM, INC.
333 GRIGGS-MIDWAY BUILDING
SAINT PAUL, MINNESOTA 55104
Telephone: (612) 645-0373

Senator David F. Durenberger, Chairman
Senate Governmental Affairs Committee,
Subcommittee on Intergovernmental Relations

Mr. Chairman and Honorable Members of the Subcommittee:

The Minnesota Federation of Citizens for Educational Freedom, Inc. ("Minnesota C.E.F.") appreciates the opportunity to submit comments regarding educational choice for students and parents in elementary and secondary schools.

Minnesotans have traditionally given priority position to education in their public policy decisions. This tradition was validated by a mid-1984 survey of over two thousand adults in the state—a survey in which Minnesotans identified education, along with taxes and unemployment, as the most important issues facing the state.

Over the years, this interest in education has stimulated legislators, citizen committees, task forces, and organizations to study, to analyze, and then to recommend educational policies and pilot projects. Our Governors, Legislators, and Education Department leaders have accepted their responsibilities for quality elementary and secondary education and have also listened to the public debate and responded to identified educational needs and suggested programming.

Minnesota C.E.F. has been one of those organizations that for over 20 years has monitored the public debate on education and has sought legislative action that would enhance the quality of education and that would implement education programs which recognize the right of all students to equitable educational opportunities. These opportunities have included bus rides, use of textbooks owned by the school district, access to health services provided by the school district, and access to special education programs.

The Supreme Court in 1925 (Pierce v. Society of Sisters) upheld the right of parents (and, we also believe, the responsibility of parents as stated in the case) to exercise choice in school attendance for their children. This constitutional right should not be thwarted, in our opinion, by denying students who comply with the state's compulsory attendance law through enrollment in independent schools access to tax-supported educational benefits.

It is this principle of exercising a civil right in conformance with and in furtherance of the state's compelling interest in an educated citizenry that has prompted Minnesota C.E.F. to study for over a decade the funding of education via the issuance of educational vouchers to elementary and secondary students.

Beginning in 1977, Minnesota C.E.F. supported legislation introduced in the Minnesota Legislature that would establish eight pilot educational service units (current districts, cooperating groups of districts, or areas within a district) throughout Minnesota which would distribute their state education funding through student vouchers. Students would then deposit their vouchers with the school of their choice. Only schools whose students satisfied the compulsory school attendance law and who met the requirements of the federal Civil Rights Acts of 1965 could redeem educational vouchers received from students.

"A Fair Share For Every Child"

The bill currently before the Minnesota Legislature (SF840 and HF444) is entitled "Education Choice Act of 1985." This legislation intends that the development, use, and evaluation of a demonstration voucher program to facilitate education choice for pupils and their parents will help to determine whether, by providing education vouchers, the quality of educational services provided to elementary and secondary pupils will be improved; the educational experience may be made more responsive to the needs of pupils and to the desires of their parents; and to what extent the quality and delivery of educational services are affected by economic incentives.

The legislation anticipates that the program, by increasing opportunity for choice in education, will produce the following results:

(a) Parents will be able to assume a more significant role in charting a course of education for their children and monitoring their educational progress, and so enchance the family's role in education be engaging both parent and child more fully in the educational process;

(b) There will be greater educational freedom and accountability within the demonstration area because parents and school children will have the option to use the vouchers at any school which satisfies the state's compulsory attendance laws; and

(c) Participating schools will emphasize different courses, disciplines, skills, teaching methods, and educational philosophies, and so increase the number of options for parents and students.

The legislation intends to aid pupils and not to support or benefit a particular school or group of schools through the demonstration voucher program. The quality of elementary and secondary education offerings in Minnesota has remained high in terms of national norms, and there is no data available that substantiate vocal fears expressed by detractors of educational choice that allowing all citizens to share in the state's budgeted allocations for education will ruin or even harm programs in the schools currently funded directly by the state.

Minnesota C.E.F. believes that the quality of elementary and secondary education, the civil rights of parents and students, and the state's compelling educational interests can best be addressed by incorporating choice in education legislation. Inasmuch as American democracy has nurtured the right of plural opinions, churches, institutions providing for the common good, and political affiliations, it ought not deny the right of pluralism in elementary and secondary education.

Respectfully submitted

MINNESOTA FEDERATION OF CITIZENS FOR
EDUCATIONAL FREEDOM, INC.

By Imogene Treichel
Imogene Treichel
Executive Director

MINNESOTA CONGRESS OF PARENTS, TEACHERS & STUDENTS
1910 West County Road B, Suite 102, Roseville, Minnesota 55113
(612) 631-1736 Toll Free 1-800-672-0993

TESTIMONY PREPARED FOR THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

U.S. SENATE

by

Van D. Mueller
Lobbyist

The Minnesota Congress of Parents,

Teachers, and Students

October 22, 1985

MR. CHAIRMAN and members of the Senate Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs: I am Van Mueller, and I currently serve as lobbyist for the Minnesota PTA. I have also served as President of the Minnesota PTA, as a member of the National PTA Board of Directors for the last six years, and as National PTA Vice President for Region 5 (Iowa, Kansas, Nebraska, Minnesota, North Dakota, South Dakota). In addition to these volunteer activities I have been involved professionally with education for 31 years and am beginning my 22nd year as a professor of educational policy and administration at the University of Minnesota.

On behalf of the 35000 volunteer members of the Minnesota PTA—parents, teachers and other interested citizens from 300 local units across Minnesota—I appreciate this opportunity to present testimony to the Subcommittee regarding parent choice and open enrollment in our public schools. I will discuss the views of the Minnesota PTA regarding open enrollment and parent choice legislative proposals, and the urgent need for limiting publically funded choice to public schools.

In April 1985 delegates at the 62nd Annual Convention of the Minnesota PTA adopted two resolutions supportive of increased parent involvement and choice in their children's school program and/or attendance center. These positions were taken in response to Governor Perpich's Access to Excellence plan which proposed a widening of educational choice available to families to include schools outside the school district of residence. The Minnesota PTA Resolutions were based on careful analysis and use of developed criteria representing parent perspectives on desirable elements of an open enrollment plan.

We believe that our public education system always has involved basic values in tension: choice and order, quality and equality. Each generation must renegotiate its own educational belief system with the broad guidelines of our constitutions, state and federal. In 1985 we are faced with a major paradigm shift. We are moving from private choice, regulation, centralization and competition to public school choice, deregulation, decentralization and cooperation. The Minnesota PTA supports the notion of open-enrollment within the public school sector because it will increase participation in the school decision-making process and lead to improved loyalty and commitment to public education.

Further, the Minnesota PTA believes that parents should have the right and accept the responsibility to be involved in all decisions that affect their children's education. Within the carefully stated limits of the legislation proposed in Minnesota both the rights of parents and children and the common good are protected. The concept of increased parent choice and responsibility for their children's education is a logical consequence of the successes of our public education system. Our population is better educated than ever before, and parents, with the help of professional educators can become sufficiently well-informed to make decisions in the best interests of their youngsters. Improving choice can help forge a new partnership between parent and professional educator.

The Minnesota PTA was pleased that Governor Perpich's open enrollment proposal and the legislative versions were limited to expanding educational choice within the public school sector and did not divert public taxes to private schools. The Minnesota PTA and National PTA continue to oppose tuition tax credits, tax deductions, vouchers or any other scheme designed to fund private choice with public money. Indeed, if choice is available within our public school system, the need for government funded private choice will certainly diminish.

In summary, the Minnesota PTA believes that increasing parent choice will strengthen public education in a number of ways. The opportunity for parents and children to access public schools and programs outside their district of residence will strengthen public education by:

- Providing greater educational opportunity for those students whose current education is now limited.
- Rebuilding the confidence of the general public in the public school system.
- Increasing parent knowledge of and commitment to the public schools and to the education of their children.
- Stimulating cooperation between school districts.
- Providing for more efficient and effective education programs available to all children and youth.

Mr. Chairman, the Minnesota PTA is concerned that most proposals for increased choice being discussed at the federal level appear to be schemes for government subsidy of private choice. We believe this is unfortunate since the unique contributions of both public and non-public school systems are lost in the inevitable comparisons of the two systems--

and the expansion of parent/family choice within the public sector becomes a casualty to the church-state debate.

I commend the Chairman and members of this Subcommittee for your concern about parent choice in our schools, and I thank you again for this opportunity to share the views of the Minnesota PTA on this important matter.

RESOLUTIONS ADOPTED 4/20/85

PARENT INVOLVEMENT/CHOICE

The Minnesota PTA/PTSA believes that parents should have the right and responsibility to be involved in all decisions which affect their children's education. Well-informed parent input is needed at national, state, and local levels of policy-making and administration. Within stated limits, parents should be provided choice in their child's school program and/or attendance center whether within or outside the school district of residence. The Minnesota PTA/PTSA supports provisions in all laws and rules and regulations which extend involvement and choice to all parents.

PERPICH OPEN ENROLLMENT PROPOSAL

The Minnesota PTA/PTSA supports the basic concept of widening the educational choice available to families contained in Governor Perpich's education proposal. We are pleased that this proposal for choice is limited to the public schools and does not divert public taxes to private schools.

The Governor's proposal to permit families to send their children to the public school of their choice without regard to district boundaries raises several concerns which the Minnesota PTA/PTSA believes to require careful consideration in developing specific implementation plans. PTA/PTSA concerns include the following:

(1) The effect increased choice will have on school desegregation progress.
(2) The financial impact on the district of residence should a net loss of students occur and provisions for dealing with continued student loss.
(3) The financial impact on the receiving district in providing the local share of school revenues.
(4) The provision and financing of pupil transportation.
(5) The standards and requirements of receiving districts concerning pupil admission, retention, and exclusion.
(6) The effect on student interscholastic extracurricular activities.

The Minnesota PTA/PTSA believes that these concerns must be appropriately addressed if increasing parent choice is to strengthen and not weaken public education.

TEN QUESTIONS/ANSWERS ABOUT THE MINNESOTA PTA/PTSA SUPPORT OF PARENT CHOICE/OPEN ENROLLMENT

The following questions and answers about parent choice/open enrollment have been developed to help parents understand the issues and communicate their support to public officials.

1. Q. *What is the open enrollment proposal?*

   A. Starting in the fall of 1986, 11th and 12th grade students and their parents would be able to choose to attend a public school outside their district or residence. The purpose of open enrollment is to foster academic excellence and to help students and parents participate in education decisions.

2. Q. *Who supports the open enrollment proposals?*

   A. Statewide groups supporting the open enrollment plan include the Minnesota PTA/PTSA, Minnesota League of Women Voters, Minnesota Business Partnership, Minnesota Association of Commerce and Industry, Citizens League, Minnesota Association of Secondary School Principals, Association of Metropolitan School Districts. In addition, many individual school board members, school superintendents and teachers from across Minnesota favor the plan.

3. Q. *Why does the Minnesota PTA/PTSA support open enrollment?*

   A. The Minnesota PTA/PTSA believes that parents should have the right and responsibility to be involved in all decisions which affect their children's education. Increasing parent choice in education will strengthen the education system and improve opportunity for all children.

4. Q. *How will parent choice/open enrollment affect school quality?*

   A. The Minnesota PTA/PTSA believes that increased parent choice through open enrollment will stimulate parent interest in their children's schools and help rebuild public confidence in public education.

5. Q. *What does the research say about parent choice/open enrollment?*

   A. Research evidence indicates that when families are permitted to select the public school of their choice, parents become more satisfied with the education sustem, student attitudes improve, teacher morale goes up, and community support for public schools increases.

6. Q. *Is open enrollment/parent choice simply a method to provide more public aid to non-public schools?*

   A. The open enrollment proposals of Governor Perpich and its legislative authors limit parent choice to public schools. The Minnesota PTA/PTSA believes that expanding choice within the public school sector will lessen the need for public funded private choice and diversion of public taxes to private schools.

CEF
NATIONAL OFFICE
CITIZENS FOR EDUCATIONAL FREEDOM
ROSSLYN PLAZA, SUITE 805 • 1611 NORTH KENT STREET • ARLINGTON, VIRGINIA 22209 • (703) 524-1991

TESTIMONY IN SUPPORT OF EDUCATIONAL VOUCHERS

before

SENATE SUBCOMMITTEE
ON
INTERGOVERNMENTAL RELATIONS

by

Sister Renee Oliver
Executive Director
Citizens for Educational Freedom

October 22, 1985

CEF a non-sectarian, non-partisan national organization of citizens and supporting groups dedicated to parent's rights, liberty and justice for all in education

I am Sister Renee Oliver, Executive Director of Citizens for Educational Freedom, a national, nonsectarian organization of individual citizens and groups that has been working for over twenty-five years for the right of parents to choose any school religious or secular without the double financial burden of taxation for public schools and tuition for the kind of education they want for their children. In other words, these citizens are concerned with the right of all parents to first-class citizenship for their children and equal protection of the law regardless of the school they attend. They are, for the most part, parents who think that they should not be required to give up one right - access to tax supported education - in order to exercise another - freedom of religion.

Just as it is illegal to discriminate against a child because of the color of his skin, it should be illegal to discriminate against a child because he attends a private or religious school. This is especially true when the government schools - into which many children are locked by virtue of compulsory education laws and finances - also teach religion, not a formal theistic religion, but a set of values and beliefs that constitute a religion in all but name. As a result, the present government monopoly abridges the religious freedom of parents who do not accept the religion taught by the government schools yet are forced to pay to have their children indoctrinated in it or to pay still more to escape the indoctrination.

For this very reason, parents should routinely be allowed and encouraged to choose the school for their children that is in keeping with their own religious and moral values.

That is why CEF has consistently supported any measure which is designed to return freedom of choice in education to parents. We are, therefore, grateful to this Committee for the opportunity to explore the advantages of privatizing education and thus of providing more and varied educational opportunities to the children and families of this country.

Recent studies have concluded that excellence in education is inextricably bound to parental involvement. When parents are involved in education, children excel; when they are not, both quality and achievement decline. Yet in the past fifty years, the number of public school districts in this country has dropped from 230,000 to less than 16,000. The result is large school districts that have moved the decision making process farther and farther from parents. Consequently when we need it most, we have less and less parental involvement.

CEF believes that the privatization of education would return the decision making process to parents, the true consumers of education. If parents received a voucher for the education of each of their children, they would be forced to explore the educational opportunities available to them. Those who have been alienated by the size of the bureaucracy would once again share in control.

In addition, because schools would have to compete for students and their voucher dollars, each school would have to produce well-educated children or watch their share of the market shrink. Competition for excellence would again be part and parcel of American education.

Furthermore, CEF foresees the availability of more teaching jobs as schools lower the teacher/pupil ratio to attract students to particular classes and programs.

But more importantly, many teachers and administrators would be in a position to start their own schools specializing in math and science or the liberal arts or schools for children with problems in reading or math or talent in music or art, etc., etc. The prospects are endless! And each school would automatically force the others to strive for excellence! The opportunity for teachers to regain and to grow in the professionalism that is currently eluding them would once more be a possibility.

In contrast, under the status quo, some children are forced - with no recourse - to attend schools that are graduating functional illiterates. Thus many children who have been written off as uneducable have no opportunity to prove the "experts" wrong; they are locked into a non-education. Imagine what a voucher would mean to such a child!

One aspect of this whole issue that CEF wishes to emphasize, however, is the fact that children in BOTH government and non-government schools must be included in the voucher program. To exclude them would be similar to allowing competition in the auto industry only among cars manufactured by, say, General Motors. Obviously, that kind of competition is no competition at all because the monopoly would still exist. (If the government gave everyone a free G.M. car, what would happen to Ford or Chrysler? There is a comparable situation in education today!)

For true competition that encourages excellence, all schools that can attract parents and pupils, should be allowed to do so. Only then will this "nation at risk" move toward its former position of leadership in the free world.

I would like now to turn your attention to what some people - predominately people within the educational bureaucracy - have alleged are problems with a voucher system:

1. The church-state issue

Some think that it would be against the First Amendment for a voucher to be used for education in a religious school. But the Court has never had the opportunity to rule on an across-the-board voucher including children in both government and non-government schools. Furthermore, the voucher would go directly to parents and only indirectly to a religious school by virtue of the parents' free choice. Citizens receive Social Security checks and food stamps and Medicare to spend as they see fit. To penalize the free choice of parents is not acceptable when it comes to food, clothing, religion, etc. and should not be allowed when it comes to anything so important as the child's education.

2. Financial considerations

A voucher system could actually cost less than present forms of financing education. Under the present government monopoly, some schools spend as little as $1500 per child while other more affluent areas spend up to $5000. Bringing costs into a more equatible and moderate range could actually provide a saving.

3. Possibility of fraud

To insure that the voucher is used only for education, it could be written in such a way that it could be redeemed only by a school.

4. The racial issue

Discrimination under a voucher plan can be prevented by redeeming vouchers only from schools that have a public policy of nondiscrimination.

5. Elitism

To expand a school's economic and social mix, a provision could be written into the legislation which states that if a school charges more than the face value of the voucher, it would have to put 10% of its voucher money into a scholarship fund for poor students who could not pay the full tuition. Monies remaining in that fund at the end of the school year would automatically revert back to the state.

6. Impact on public schools

First of all, any threat to public schools arises from their defects, not their accomplishments. Over 90% of American children attend and will probably continue to attend public schools. In areas where government schools are satisfactory, not even the most comprehensive voucher plan would have much effect. In other areas where there is widespread dissatisfaction, government schools would have to improve or lose students. The same is true of a non-government school. If it is necessary to build a financial Berlin Wall around a school in order to keep the students in, it is time to "let my people go."

Conclusion

We all know that in the American system, freedom and competition are seen as necessary to keep costs down and quality up and to allow the "little guy on the block" to compete with the big guy. Elementary and secondary education should be no exception. If all other free countries use the tax system to support both government and non-government schools - and currently their schools are superior to ours - surely the freest country in the world should not continue to encourage a governmeny monopoly of education.

CEF encourages this Committee to pursue the use of vouchers as a means to improve the quality of education for all American children.

STATEMENT TO: SENATE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

SUBJECT: VOUCHERS; PARENTAL AND STUDENT CHOICE IN EDUCATION

BY: UNITARIAN UNIVERSALIST ASSOCIATION OF CHURCHES
AMERICAN HUMANIST ASSOCIATION
COUNCIL FOR DEMOCRATIC AND SECULAR HUMANISM
AMERICANS FOR RELIGIOUS LIBERTY

PRESENTED BY: EDD DOERR, EXECUTIVE DIRECTOR, AMERICANS FOR RELIGIOUS LIBERTY, P.O.BOX 6656, SILVER SPRING, MD 20906
PHONE: 301-598-2447

OCTOBER 22, 1985

Mr. Chairman and Members of the Subcommittee:

The Unitarian Universalist Association, with 175,000 members, is composed of over 1,000 congregations in the United States. The American Humanist Association and the Council for Democratic and Secular Humanism are smaller associations of persons identified with the religious and/or philosophical position of Humanism. Americans for Religious Liberty is an interfaith association dedicated to defending and promoting religious freedom and the constitutional principle of separation of church and state.

All four associations strongly support public education and the principle of separation of church and state.

Our concern is directed toward voucher plans which might be used to support the attendance of students at sectarian private schools.

Although various voucher plans have been discussed for a generation, none has ever found much favor around the country. The only voucher experiment ever conducted, in San Jose, California, was confined to public schools and generated little popular enthusiasm for the idea. Attempts to initiate a voucher amendment to the California state constitution all failed. The Ford administration spent considerable effort and funds trying, unsuccessfully, to persuade several school districts in New Hampshire and Connecticut to experiment with vouchers. In the only statewide referendum on a proposed voucher plan, in 1978 in Michigan, voters rejected the plan by a three to one margin, even though it was tied to a plan to reduce local taxes. As Education Secretary Bell was forced to admit at the House Education and Labor Committee hearing on vouchers in 1983, there is little real support for vouchers.

Public opinion aside, there are serious constitutional objections to any voucher plan which would support attendance at nonpublic schools, over 90 percent of which are pervasively sectarian institutions. The legal advisers to President Nixon's Commission on School Finance, Father Charles M. Whelan of Fordham Law and Paul A. Freund of Harvard Law, so declared in 1971. Since then the constitutional case against vouchers has grown even stronger. In 1972 and 1973, in Wolman v. Essex (409 U.S. 808), PEARL v. Nyquist (403 U.S. 602), and Sloan v. Lemon (413 U.S. 825), the Supreme Court ruled unconstitutional Ohio, New York, and Pennsylvania laws which provided tax aid to nonpublic schools in the form of tuition reimbursements quite similar to vouchers. In 1985 in Aguilar v. Felton (84 S.Ct. 287) the Supreme Court held that Chapter I federal aid programs could not be constitutionally provided on the premises of denominational schools. Neither a full scale voucher plan nor the "voucherizing" of Chapter I could pass the tests applied in these cases. Vouchers would violate the "effect" test by providing public funds to a religious institution and the "entanglement" test by requiring extensive public monitoring to prevent sectarian influences on students under ~~a~~ publicly funded program.

Further, voucher plans would provide public subsidies to nonpublic schools which commonly practice creedal discrimination in hiring staff and which discriminate along creedal, academic ability level, and other lines in admissions. Moreover, students in denominational schools are generally required to attend religious services and to be present for religious instruction even if they are not adherents to the faith of the denomination operating the school. In general, the forms of selectivity common in nonpublic schools are incompatible with the sort of open admissions and hiring required of public schools. Use of vouchers to support attendance at schools practicing creedal and other forms of selectivity would probably violate the Supreme Court's 1973 ruling in Norwood v. Harrison (93 S.Ct. 2804), in which the Court held that even indirect public aidcould not go to schools "that practice racial or other invidious discrimination."

Both regular voucher plans and the "voucherization" of Chapter I would encourage shifts of enrollment away from public education. This in turn would downgrade public education, diffuse and render less efficient and less economical government efforts to improve education, and compel a great many local school districts to transport additional students to nonpublic schools. The transportation problem could be especially serious for school districts in many northeastern states where districts are required by state law to transport students far beyond district boundaries and where per capita transportation costs for nonpublic students already greatly exceed per capita transportation costs for public students.

We believe that all forms of educational innovation, experimentation, enrichment, and diversification worthy of tax support can and should be provided in our public schools. Diversion of tax aid to nonpublic schools would not only be unconstitutional but would also unnecessarily complicate federal aid and render it less efficient. We urge the Senate not to consider any proposal to use public funds directly or indirectly to support attendance at nonpublic schools.

Educating Students for the 21st Century

Over the next decade there will be significant and beneficial restructuring of America's kindergarten-12th grade (K-12) education system. Minnesota has a striking opportunity to be a leader of this effort and to achieve major gains in the quality and cost-effectiveness of its education system. It should seize the opportunity.

minnesota
business
partnership, inc.

The Minnesota Business Partnership (MBP) was founded in 1977 with this purpose:

To help identify and analyze the state's longer-range economic issues and help set priorities and plans for action, and to participate in creating a political consensus between business and government and other groups in our society to help address these economic issues.

In 1985, the fundamental touchstone for the MBP still is increasing economic prosperity for citizens across the state. In our view, the best measures of prosperity are jobs and personal income. Because of the overriding importance of jobs and personal income, the MBP focuses its attention on issues which have the most significant impact on their growth.

Education is one of those issues. The performance of our companies depends on the ability of the people we attract to manage our businesses, and that ability is sharply influenced by the quality of their education. Minnesota offers numerous examples of how well our education institutions perform their varied tasks. But the performance of our kindergarten-12th grade (K-12) education system in Minnesota and nationally is slipping as measured by objective criteria.

Because of this, the MBP commissioned a major study of K-12 education in Minnesota. Our consultants, BW Associates, have set forth a challenging agenda for education reform. We hope it will be debated vigorously and discussed widely. Above all else, we hope that it will force policy-makers to come to grips with the need for fundamentally restructuring education to meet the needs of the future.

One of the most striking qualities of Minnesotans is our genuine belief in our ability to work together to shape our future. We look forward to doing our fair share and more in making Minnesota the very best state in the nation.

H. B. Atwater, Jr.
Chairman and CEO
General Mills, Inc.
Chairman, Minnesota Business Partnership

November 12, 1984

To the People of Minnesota:

The young people of our state face a future of enormous promise...and considerable challenge. A future that will provide ample rewards for the productive and innovative...yet require continual adaptation due to its rapid change and increasing complexity. A future that requires the best possible education.

The young people of Minnesota have a right to that education. And we owe them nothing less.

We members of the Minnesota Business Partnership decided nearly two years ago that we needed help in assessing the condition of Minnesota's kindergarten-12th grade (K-12) system. We commissioned BW Associates, a respected education consulting firm based in Berkeley, Calif., to analyze the system's effectiveness, and if necessary, make recommendations for improvement.

BW Associates' study confirmed the impressions of many in the state...that the K-12 system has produced good results over the years. But it also found cause for real concern...a long-term decline in test scores, increased remediation, and diminished skills in problem-solving, reasoning and communicating...the very skills our young people will need most.

The BW Associates' recommendations suggest to us that a fundamental restructuring of the system is required, based on:

- *student mastery of core courses* in mathematics, science, social studies and communication skills, not time spent in class
- *greater opportunity for teachers* to teach, counsel and work with individual students
- *measurement of student achievement* and school effectiveness through statewide testing
- *increased choice for students* in grades 7-12 among elective programs and providers, consistent with their post-secondary interests
- *vesting responsibility for school management and governance* to the maximum possible extent in local schools and local communities

The BW Associates' recommendations represent an integrated and detailed plan of action that can be implemented over time without serious dislocation. They incorporate many innovative reforms either used or tried with considerable success in Minnesota and other states.

The recommendations certainly will require adjustments on the part of many involved in Minnesota education, and we anticipate they will not be met with universal favor. Nevertheless, we believe they deserve careful consideration, and we hope they will be viewed as an integrated system of evolutionary reforms that can raise the K-12 system to an even higher level of efficiency and effectiveness.

BW Associates believes that Minnesota may be in a unique position to establish a new standard for academic excellence based on a wealth of fine teachers and administrators and an unwavering commitment to education among the people of this state.

We agree.

And we offer this report with the hope and expectation that it will make a significant contribution to preparing our young people for important contributions and personal satisfaction in this new era of our country's development.

Sincerely,

L. W. Lehr

L. W. Lehr
Chairman and CEO
3M
Chairman, Minnesota Business Partnership
Educational Quality Task Force

The Problem

The future requires higher student performance

There has been a slow but steady erosion in Minnesota student performance, with danger signals such as these accumulating for more than 20 years:

- Declining student test scores
- Sharply expanded remedial course work in post-secondary schools
- Growing employer dissatisfaction with the skills of new employees
- Young people who feel unchallenged and unfulfilled by their high school experience.

Education achievement in Minnesota and the United States has been drifting downward for many years. When statistical adjustments are made to account for differences in student test taking populations, Minnesota high school students now score only at the national average in verbal areas and only slightly above average in mathematics. Ten years ago, Minnesota high school students ranked higher relative to the nation.

Furthermore, this average is neither high enough in Minnesota, nor in the nation. Students can achieve more and learn more in-depth.

Employment opportunities are likely to be greatly influenced by global competition and the influx of new technologies into the workplace. Minnesota's continued economic prosperity will require highly skilled managers, scientists and technical experts as part of a work force that, on the whole, must think and solve problems creatively and learn continually.

This glimpse into the future helps to place the current level of student performance in perspective. What was once good is now barely acceptable and will be inadequate as demands for more effective education increase. The challenge is not simply to prevent further erosion of Minnesota's present level of education, but to move to a new plateau — one that reflects a fuller realization of youth's potential and establishes Minnesota as the leader in the revitalization of American education.

What Must be Done

The BW plan's essential elements

Minnesota has a strong base on which to rebuild its education system. We have many fine teachers and capable administrators.

Our primary problem is that Minnesota schools are asked to do too much. The curriculum is too broad, covers material at insufficient depth, and lacks focus. As a result, students have difficulty learning, developing reasoning skills, and preparing for the future.

Also, teachers are burdened with too many non-teaching tasks. Consequently, they lack the opportunity to really get to know and work with each student.

Many students graduate ill-prepared for either work or further education.

Without changing the organization of schools, these problems will persist and, indeed, worsen in the face of future demand. Piecemeal reform or adding more money will not help. It is time for major restructuring.

This program offers a plan for educational excellence in Minnesota, which includes these essential elements:

- Learning based on mastery of core courses
- Reorganizing teaching roles and instructional management
- Restructuring grades 7-12 to provide *both* greater focus and student choice
- Measuring student performance and school effectiveness
- Decentralizing authority for school governance and management
- Keeping real (inflation-adjusted) spending constant while the program is being implemented

These kindergarten-12th grade (K-12) education reforms are described in greater detail on the following pages.

Educating Students For the 21st Century

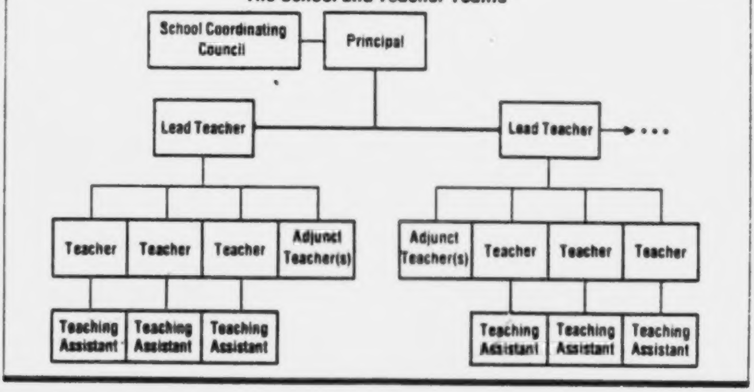
Learning based on mastery of core courses

Minnesota students can achieve more, learn more in-depth, and learn to learn. The first step is for education to aim for all students to achieve a high, agreed-upon level of competence in core subjects—communications (reading and writing), mathematics, science and social studies. Students from kindergarten - 10th grade would follow an individualized learning program designed to help them realize their full potential. Teachers would be specially trained to apply methods of learning geared to mastery of subjects and the needs of each student. Unlike the current system, grade promotions would be made on the basis of academic achievement. rather than time spent in class. All students would be expected to learn. Those who fall behind would receive extra help from teachers and other students. Those who can learn more would be given advanced work.

Reorganizing teaching roles and instructional management

The importance of the teaching function must be elevated in every conceivable way to give teachers a new and deserved status. Non-teaching responsibilities now performed by teachers should be transferred to non-teaching personnel. The practical result of the new system would be a better ratio of students to teaching adults than in the current system. The use of high technology would be expanded as an education support tool, as would the practice of students instructing students. The plan proposes a different managment of teaching that would emphasize teacher teams composed of a lead teacher, teachers, teaching assistants and adjunct teachers. Different levels of training and achievement would be required in each of the four roles. The teacher would manage all teacher teams. The principal and lead teachers would serve on a school coordinating council, which among other things would help select curriculum, organize teacher teams, and set guidelines for teacher team performance evaluations. Teachers themselves would have primary responsibility for evaluating teacher performance.

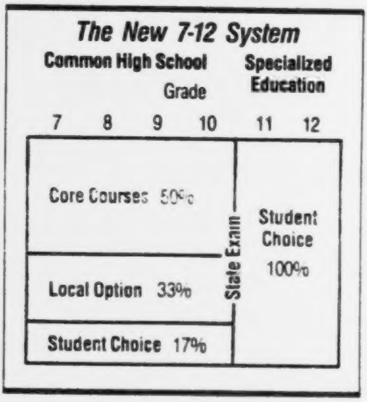
The School and Teacher Teams


School Coordinating Council
Principal
Lead Teacher
Lead Teacher
. . .
Teacher
Teacher
Teacher
Adjunct Teacher(s)
Adjunct Teacher(s)
Teacher
Teacher
Teacher
Teaching Assistant
Teaching Assistant
Teaching Assistant
Teaching Assistant
Teaching Assistant
Teaching Assistant

Educating Students For the 21st Century

Restructuring grades 7-12 to provide *both* greater focus and student choice

Students in grades 7-10 would concentrate on the core subjects, plus additional course work determined by the local school officials. In addition, they could choose elective courses, including those offered by other schools or approved outside providers. In grades 11 and 12, pupils would have the opportunity to choose from a variety of alternative education programs. Examples might include college preparatory programs in liberal arts or science/math, vocational/technical programs or performing arts concentrations. School districts would be encouraged to provide appropriate specialized offerings to their 11th and 12th grade students, as would other public or private vendors approved by the state. Counseling to assist student choice would be the responsibility of each student's teacher team.



Measuring student performance and school effectiveness

The State of Minnesota should develop uniform, statewide tests that would be given to all students at the end of elementary school, grade six, and at the end of the 10th grade. These tests would measure students' mastery of the core subjects and would provide a means for the public to assess the effectiveness of teachers and administrators. Testing administered at regular intervals in grades K-10 would help teacher teams develop or refine individual learning programs based on the student's progress. Unlike much of today's testing, the new examination would measure the depth of student learning and the ability to solve problems and think creatively.

Educating Students For the 21st Century

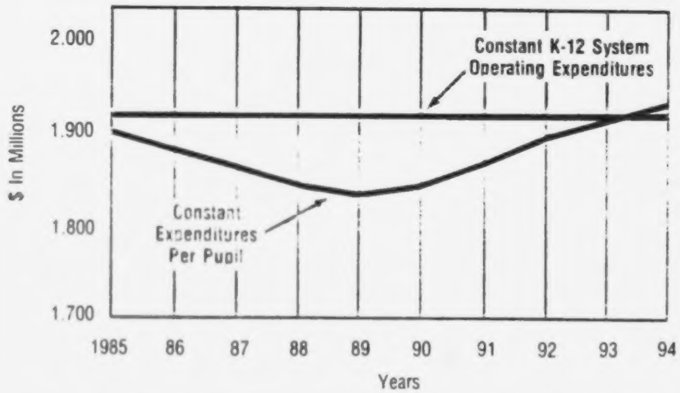
Decentralizing authority for school governance, management and curriculum

To achieve a level of performance consistent with the goals and objectives of individual school communities, responsibility for managing the system should be at the level where the educational product is delivered. This is commonly referred to as site-based, or school-site management. It means that individual schools would establish governing bodies to guide the principal in shaping the educational style and elective offerings of each school. The district would establish overall policy, financial controls and the allocation of resources among individual schools in the district. This system recognizes the school principal's crucial role and provides for meaningful participation by those directly affected.

Keeping real (inflation-adjusted) spending levels the same while the program is being implemented

Given projected declines in high school student enrollments, the program can be implemented over a 7-10 year period with no increase in real (inflation-adjusted) spending. The districts would maintain approximately their present level of per-student spending, adjusted for inflation, while the dollars made available from declining enrollments would fund the transition costs of the system.

Financing the Reforms
*1982 Dollars**

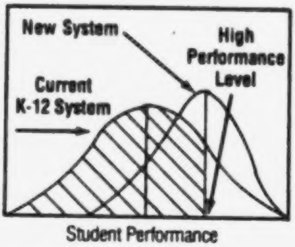


*Total spending for K-12 education would increase no more than the rate of inflation.

When All is Said and Done

The strongest argument for implementing the proposed education reform plan is the expected, substantial increase in student achievement. Research and experience in thousands of classrooms across the nation and in other countries indicate that the combination of changes recommended in this plan could result in the average student performing better than 80 percent of students in the current system. Moreover, Minnesota can expect that very few students will perform poorly, and many more will learn to solve problems and think creatively.

More Students Can Learn More



How do We Get There from Here?

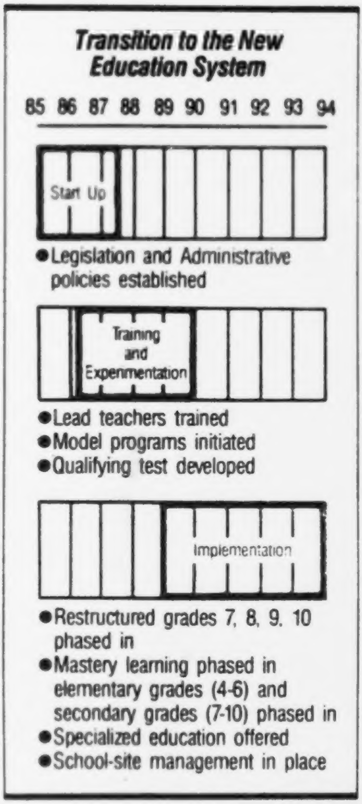
Creating a restructured, cost-effective kindergarten-12th grade (K-12) system centered on the education fundamentals for the 21st century will take time, but we must begin the process of change now.

In 1985, the Legislature will be asked to consider the following first steps:

- Limiting the state's role in establishing what is taught, how it is taught, and other details on the way in which teaching occurs to a requirement that schools focus their curricula on mastery of basic subjects (reading comprehension, writing, math, science and social studies) through 10th grade
- A required statewide test to measure mastery of these basics
- Legislation to enable the creation of teacher teams headed by lead teachers and to provide training in mastery learning.
- Legislation enabling pilot programs in school-site management

In addition, the BW Associates report demonstrates that its proposed reforms can be achieved and paid for while limiting the growth in the aggregate level of state funding for K-12 education to the rate of inflation without reducing the level of per pupil support, because of projected enrollment declines over the next several years.

The plan, *Educating Students for the 21st Century*, presents Minnesota with a clear opportunity to set a national precedent for educational excellence. If these initiatives are accepted in 1985, important progress toward a more effective K-12 system will be made. The remaining reforms can then be phased in over the next 7-10 years, according to the following implementation schedule:



Transition to the New Education System

- Legislation and Administrative policies established

- Lead teachers trained
- Model programs initiated
- Qualifying test developed

- Restructured grades 7, 8, 9, 10 phased in
- Mastery learning phased in elementary grades (4-6) and secondary grades (7-10) phased in
- Specialized education offered
- School-site management in place

The Student Performance Problem in More Detail

Evidence suggests a diminishing return on Minnesota's investment in kindergarten-12th grade (K-12) public education — and it is Minnesota children who are being shortchanged.

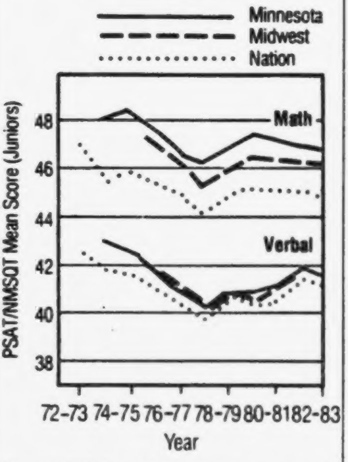
This comes as unexpected news to a state with long-standing pride in its commitment to academic excellence. Minnesota traditionally has been a leader in terms of its nationwide percentage of students completing high school and its exemplary performance on national tests.

Even so, our education performance appears to be declining, along with the nation's. Statistics show that while Minnesota students' performance is still strong, it is not as strong as it once was. And, even more important, it appears to be weakening.

Warning signals from Minnesota's present educational system include the sharply increased need for remedial coursework in post-secondary schools and increasing percentages of young people who feel unchallenged and unfulfilled by their high school experience, as determined through interviews with students and teachers.

A more obvious sign of the system's growing ineffectiveness is one detected by the 1984 BW Associates study of K-12 education in Minnesota: a decline in Minnesota students' national test scores.

Data for college-bound students show that Minnesota students perform about the same as those of the Midwest and the nation in verbal skills, but they have declined with the rest of the nation over the past decade. In mathematics, Minnesota scores are slightly above average but have also demonstrated the same patterns of decline as have other states.



Minnesota PSAT Scores Declined with Nation In Past Decade

Source: BW Associates. An Assessment of Minnesota K-12 Education; Student Performance in Minnesota. Volume I, Summary, February 1984.

An analysis of Scholastic Aptitude Test (SAT) and American College Testing (ACT) data over the last decade indicates "a marked decline in Minnesota's average verbal score and a slight decline in mathematics," according to BW Associates. In other words, the state's highest achieving students are not doing as well as they once did. An analysis of scores on the Minnesota state test, the Minnesota Educational Assessment of Progress (MEAP), also shows that high school students may be deficient in essential higher-order thinking and reasoning skills.

"Higher order" skills are those required to conduct such basic tasks as calculating mortgage rates, writing clear letters and interpreting written directions. Paul Berman of BW Associates points out that "today's higher order skills will be tomorrow's basic intellectual requirements." As our society becomes more and more complex, deficiencies in these areas become increasingly critical. And yet, when a group of Minnesota 17-year-olds was recently asked to identify the main idea in a written passage, only 31 percent were able to answer correctly.

Consider this performance in light of a 1984 survey of Minnesota Business Partnership (MBP) companies. In that study, 84 percent of the respondents identified writing as the most important area for improvement. That is, MBP respondents viewed writing skills as a key requirement to function well in most occupations. Nevertheless, 42 percent of the companies said that 10 percent or more of their new professional and technical employees do not have adequate writing skills when hired.

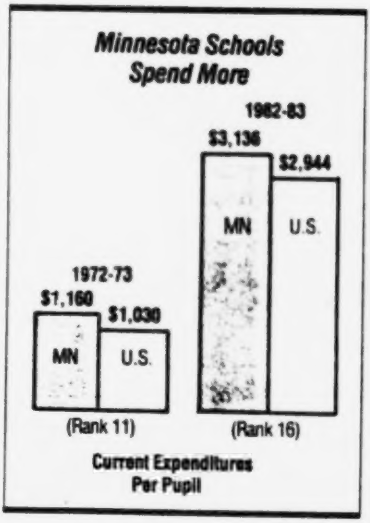
Clearly, these trends must be reversed if our students are to enter successfully a global marketplace that is becoming evermore rigorous and competitive.

Will the Plan Require More Spending?

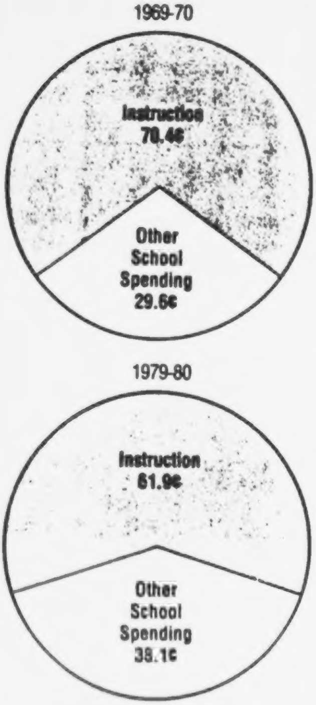
No. The plan would cost no more than the current system. But it would be more cost-effective because of higher student achievement.

There will be costs associated with the transition from the old system to the new. However, given projected declines in high school student enrollments, the program can be implemented over a 7-10 year period, with no increase in real (inflation-adjusted) spending.

Furthermore, additional spending is not needed because Minnesota is already generous with its funding of elementary and secondary education. In fact, Minnesota elementary and secondary schools spend more on a per pupil basis than most in the country. What's more, per pupil expenditures in real (inflation-adjusted) dollars increased 21.8 percent between 1973 and 1983.



Less of Minnesota's Education Dollar Goes to Instruction than 10 Years Ago



Share of Minnesota Public School Spending

Other school spending includes transportation, food programs, student activities, plant operations and maintenance, fixed charges, administration and tuition/transfers.

Source: BW Associates, "An Assessment of Minnesota K-12 Education; The Cost of Public Education," June, 1984.

If there is a problem in school spending, it is in how funds are being allocated. Public schools in this state reduced the share of their budgets allocated to actual instruction during the 1970s.

A key factor in the shift of school spending from instruction to other activities is the increased use of categorical aids by state government. Categorical aids are targeted to fund a specific service, such as transportation. The relative increase in categorical aids spending means that local school districts have less control over their spending. In summary, more of the state and local tax dollar is being allocated to state-mandated programs and less to improving the basic education of all students.

The Experts Behind the Study

BW ASSOCIATES

The programs and goals adopted by the Minnesota Business Partnership (MBP) over the years are direct expressions of its members' concerns. The philosophy of the MBP has always been to draw on the knowledge and experience of experts as the basis for formulating credible public policy agendas, based on those concerns. The study of kindergarten-12th grade (K-12) education in Minnesota is in that tradition.

In 1983, the MBP retained BW Associates, a California consulting firm, to conduct an in-depth study of education in Minnesota and to develop a comprehensive, long-term plan for its improvement.

BW Associates was formed in 1980 and specializes in education research and policy analysis. One of the firm's most notable accomplishments is its study of California's K-12 education system for the California Business Roundtable. This study played a major role in the development of education policy by the California business group and was the basis for many of the changes enacted by the California Legislature in 1983.

BW Associates has since completed their analysis and recommendations concerning Minnesota's K-12 system. The result is a definitive analysis of the K-12 public education system in this state, along with a well-founded, concrete set of progressive recommendations for revitalizing its education structure.

More on the Subject

Questions and answers regarding the BW Report on K-12 education in Minnesota

The reforms proposed by BW Associates depart enough from present practice to raise legitimate concerns about their impact. The following questions and answers address a broad spectrum of those concerns and should serve to alleviate them.

Overriding Concerns

1 Q. *Would student performance really improve enough to justify the major changes being recommended in this plan?*

A. Yes. In situations where mastery learning programs have been carefully implemented, student performance has increased dramatically. As explained in the BW Associates report on kindergarten-12th grade (K-12) education in Minnesota, it is estimated that by shifting to mastery learning, the average student in the proposed system could achieve at a higher level than 80 percent of students in the current system. In addition, the reforms would increase parent and community involvement in schools, which has a direct effect on school performance. Teacher preparation would become more challenging. The job would pay more, and the field would be more professionally organized. This all adds up to heightened student learning.

2 Q. *Is Minnesota's education system in crisis? Why seek major reform?*

A. The evidence is convincing that student academic performance peaked in the mid-1970s and has been declining since, even though education funding has increased. Minnesota has rarely waited for a crisis to materialize before taking action. This state must take advantage of its opportunity to act now before the future overwhelms its education system.

3 Q. *Under the proposed reforms, what happens to the school-based athletic and social activities that are so essential to the well-rounded development of youth and to community cohesion?*

A. In the transition years, little change is anticipated. As the system changes, the activities would continue as they are now in grades 7-10. Once the new system is in place, districts would have the option to maintain current co-curricular programs in grades 11 and 12 — and it appears that many, if not most, would. In addition, because of the greater flexibility proposed for grades 11 and 12, the schools and districts would have the option to shift selected activities to community-based organizations, in order to concentrate on education priorities.

***4 Q.** Are there places in Minnesota where parts of the plan have already been implemented? If so, how successful are they?*

A. Of the major components of the plan, it is diagnostic testing that has been most fully implemented. Also, the Bemidji, Minneapolis, North St. Paul and Roseville districts all have incorporated mastery learning into their approach to education. There are also many other programs in place that are compatible with the reforms and could easily mesh with the new system, for example:

- Minneapolis Magnet Program
- Educational Cooperatives Service Units shared teaching on special subjects (ECSUs)
- Teacher partnerships in the Buffalo School District
- School management projects funded by the Northwest Area Foundation
- McKnight Foundation and Public School Incentives
- Teacher sharing on a regional basis among smaller school districts
- The use of technology to provide students learning opportunities on specialized subjects

***5 Q.** Are there other states or areas in the country that have moved toward the education reforms proposed in this plan?*

A. New York has a well-used state qualifying exam. Chicago's mastery learning program in reading is also exemplary. And numerous states apply variations of the teaching team concept, for example, California. However, the recommended program is unique because it links several of these reform elements into a comprehensive proposal.

***6 Q.** The restructuring of grades and the provisions for student choice in the plan are directed at high schools. What about elementary schools?*

A. The best way to improve Minnesota elementary schools is to reform instruction and management. The plan would do this by establishing high standards for all elementary grades, requiring the statewide test at the end of grade 6, phasing in mastery learning in grades 4-6, setting up teacher teams, providing teacher assistants, installing school-site management and requiring elementary school boards of education.

7 Q. How does the proposed K-12 education system mesh with programs at the state and national higher education level?

A. The higher education system includes extremely selective colleges and universities, as well as institutions which are open to everyone, regardless of academic history. In the past decade, remedial course offerings in Minnesota post-secondary institutions have increased dramatically, with most offering high school and pre-high school math, reading and writing. It is anticipated that students, whether they go to vocational/technical institutes or to college, would be better prepared for them than under the current system. Students could attend Area Vocational Technical Institutes (AV-TIs) for their 11th and 12th grade specialized education, or go to intensive college preparatory programs, which would increase their chances of entering selective institutions. We anticipate closer cooperation among all levels of education and elimination of duplication.

8 Q. How would state-mandated services be affected under the new education system, if it is implemented?

A. The plan complies with state law affecting these services. The BW Associates plan reforms are based on the principle of education equality for **all** students. The proposed reforms would seek to provide equity and opportunity through the mastery learning approach. With this approach, more special needs could be met in the classroom.

9 Q. What about desegregation requirements?

A. All of the reforms can and would be accomplished in keeping with the legal guidelines surrounding integration. The new system would go even further toward equal education opportunity by assuring that every student masters the same core subject matter.

Restructuring the Learning Process

10 Q. *Who would be responsible for determining core subject matter?*

A. The essential goals of the core learning program — science, math, communications (reading and writing) and social studies — would be state-mandated, with input from teachers, parents, administrators, students and board members. Specific requirements would be developed by districts and schools.

11 Q. *Why is mastery learning so important?*

A. The mastery learning concept provides a set of assumptions and techniques related to the learning process that have proven extremely effective in increasing student performance. The concept assumes that **all** students are capable of a high level of academic proficiency, if they are provided with clear expectations, instruction suited to their own learning needs, frequent testing and feedback, and individual attention. Students who fall behind receive more attention until they catch up. Advanced students receive more material in-depth and have the opportunity to teach others. The entire class, both teachers and students, are motivated to ensure that **all** students master the subject matter materials prior to promotion.

12 Q. *Who would create the statewide tests for accountability?*

A. The Minnesota Department of Education would have primary responsibility for creating the tests, working closely with teachers and with testing specialists. Once the tests are developed, their use would be authorized by the state Board of Education, which would maintain any public data necessary to ascertain results, in conjunction with the state Department of Education.

13 Q. *Would a student's performance on the 10th grade state qualifying test be used as the basis for graduation or as the basis for the stipend to fund 11th and 12th grade education alternatives?*

A. No. Graduation requirements would be determined by the district. The same holds true for the sixth grade elementary test. The requirements for receiving the stipend would be:

1. The student must take the 10th grade statewide qualifying test

—and—

2. The student must be over 16 or have completed local graduation requirements.

The qualifying test serves only to clarify expectations and measure performance. One would receive the stipend no matter how he or she scores on it.

14 Q. *How many times would a student be allowed to take the state qualifying test at the end of the 10th grade?*

A. There would be no restrictions placed on the number of times a student can take the test, other than the frequency of its scheduled administration. Students would be encouraged to re-take the test if they scored low, as a means to increase mastery of core subject matter.

15 Q. *How would a student's performance on the state qualifying test affect his or her options for further study or work? Would the test be used to determine which academic or career track a student pursues?*

A. The impact of the student's score on his or her future education and employment opportunities would depend on the manner in which employers and educational institutions choose to utilize this information. Employers, as well as providers of specialized and higher education, may set minimum scores for hiring or admissions purposes, as they see fit. However, the state would ensure that public institutions do not use test scores in a discriminatory way.

16 Q. *Who would have access to the results of the statewide qualifying test, and how would they conceivably use them?*

A. Individual scores on the qualifying test are personal and confidential. As such, they may be requested as part of job or schooling applications, but would not be made public without the student's permission. However, aggregate scores by school, class and subject matter would be public information, and would be available to provide a basis for judging the performance of schools.

17 Q. *How would the system benefit the rural schools and districts, as opposed to urban and suburban districts with their varied and accessible opportunities for study outside the school?*

A. Rural, even more than urban, schools would benefit from being able to concentrate their resources on mastery of the core areas, rather than providing extensive mandated course offerings. Also, even the smallest and remotest of districts exist within communities that provide rich learning resources, for example, agricultural extension, 4-H youth development programs and small businesses. Students could utilize these resources for credit. In addition, adjacent districts could specialize. Educational Cooperatives Service Units (ECSUs) could expand, and more resources could be allocated to technology to expand the information base of local schools.

18 Q. How would the system assure the competency of education providers outside the school?

A. Organizations seeking to provide specialized education for grades 11 and 12 would need to be accredited by a statewide authorizing agency. Applicants would be provided information on educational objectives, program staffing, qualifications and accounting procedures. This registration would provide a base of information to check against possible complaints. The authorizing agency would develop guidelines to assist district and local school boards in reviewing qualifications of outside providers for grades 7-10, which these boards would certify as meeting acceptable standards of quality.

Reorganization of Teaching

19 Q. How would the teaching role change under this plan?

A. Teachers would be part of differentiated teams, headed by lead teachers and supervised by the principal. The counseling role would be integrated into the teacher team. Paperwork would be delegated to teaching assistants. Curriculum offerings would be derived through the school coordinating council and teacher team meetings. Training, staff development and evaluation would emphasize effective use of mastery learning to increase student achievement, especially in higher order skills.

20 Q. How would the infusion of "adjunct" teachers, most of whom would have dual careers, benefit the new education system?

A. Adjunct teachers would be persons the schools identify as having special expertise that would be beneficial to students. They would be hired on flexible, short-term contracts to bring this expertise into the classroom. They would be people from business, industry, the professions, crafts or trades who could link student learning to the "real world." Thus, they would provide insight into the practical applications of knowledge within the context of the working environment. They could also share some of the latest knowledge developments.

21 Q. How would the plan's reforms benefit teachers?

A. The plan proposes that teachers receive salary increases that could amount to more than 70 percent over a 10-year phase-in of the reforms (assuming an inflation rate of 5 percent). The raises include a cost of living adjustment and a 6 percent increase in salary. Lead teachers would in addition receive a 20 percent raise. Teachers would have more control over their professional activities. Opportunities for advancement would exist within the profession. New teachers would be more stringently selected and rigorously trained. Teachers would work closely with other teachers, increasing their access to support, criticism and, hence, professional growth.

***22 Q.** Would there be an increase in number of students per teacher?*

A. There would be more adults with teaching responsibilities, thus the number of students assigned to teaching adults would be reduced.

***23 Q.** How would teacher training be shaped?*

A. Teachers would need a master's degree, consisting of a two-year professional preparation program concentrating on mastery learning and practical teaching experience. Teacher candidates would have to pass a state examination, serve a three-year apprenticeship with a lead teacher, and be evaluated by a teacher assessment panel.

***24 Q.** What "non-teaching" functions would be transferred to others in the system? When?*

A. Teaching assistants would take over many of the "non-teaching" functions. They would help prepare and distribute curriculum materials, assist teachers with classroom management and everyday clerical tasks (for example, attendance), correct and record results from student diagnostic tests, and assist with homework assessment.

Decentralization of School Management

***25 Q.** What functions would the local school boards and school coordinating councils perform? How would they be set apart from the district school boards?*

A. School coordinating councils would be composed of the principal, department heads and lead teachers. They would select the curriculum, subject to the approval of school-level community boards; organize teacher teams and class assignments; and establish school schedules and guidelines for teacher team performance evaluations and staff development. School-level governing boards would be made up of parents and members of the local community. These governing boards would be elected by the public and at least half of the members would be parents. They would oversee the school coordinating councils. One board would be elected for each school in the district, which would still have a district school board.

26 Q. *How would the role of district school boards change under the proposed plan?*

A. District school boards would be charged with hiring the superintendent and setting overall district policy. The board would determine the fiscal support needed to be raised by local taxes. Allocations of funding to each school would be made according to agreed upon goals and objectives. As a general rule, it is anticipated that district school boards would focus more attention on educational policy, determining the standards for performance and graduation. Relatively less time would be devoted to the school's line-by-line budget and operating decisions.

27 Q. *How would the role of district superintendents change under the proposed plan?*

A. Superintendents would select principals subject to acceptance by school governing councils. In addition, the superintendent's role would include overseeing the performance of each school; assisting in the creation of acceptable standards of performance; assisting in the development of specialized courses; and securing qualified providers.

28 Q. *How would the role of the state Department of Education change under the proposed plan?*

A. The state Department of Education would be responsible for assessing the overall performance of Minnesota's K-12 system. Based upon analysis of the qualifying test results and other input from teachers, administrators and parents, the Department of Education would report regularly to the state Legislature and the state Board of Education on necessary changes in the system to increase student performance. The Department of Education would have the responsibility for developing teacher training and for assessing the quality of outside providers with whom school districts could contract for particular course work. As is presently the case, it is expected that most data permitting ongoing assessment of performance would be collected, analyzed and reported by the Department of Education.

29 Q. *How would the role of education committees in the state House of Representatives and Senate change under the proposed plan?*

A. Education committees in the Legislature would concentrate on overall financing needs for K-12 education in Minnesota. As is presently the case, the committees would be responsible for developing an overall state financing plan for recommendation to the governor. Because of the higher level of accountability and better student performance, it is expected that the committees would also focus on broad education policy issues.

Concerns About Financing

30 Q. *What are the details concerning funding of the transition and the new system?*

A. The new education system would be no more costly than the current system, but would generate much higher student performance. Secondary school enrollments are projected to decline by 10 percent. The plan recommends that as this happens schools reduce their expenditures per student and that statewide K-12 education revenues be maintained at a stable funding level over the next decade. The resulting surplus, $360 million (1982 dollars), would pay for the total transition costs.

31 Q. *Given declining enrollments, how would the number of teachers change to make the system more cost-effective?*

A. There would **not** be an addition of teachers. Rather, roles would be differentiated and more adults with teaching responsibilities would be added. The cost-effectiveness is gained by varying the ratio of students to teaching adults for different instructional purposes and by adding semi-professionals who could perform tasks currently done by teachers at less cost.

A Study on Education

HOW AND WHY

BW Associates conducted their study of kindergarten-12th grade (K-12) education in Minnesota in two phases. Phase I examined the current status of K-12 education in Minnesota, addressing the following statewide issues:

- The availability and adequacy of K-12 student performance data
- The academic performance of K-12 students
- The preparation of students for college and work
- The cost of K-12 education compared to costs in other states

During Phase II of the study, BW Associates developed their plan for improving K-12 education in Minnesota.

Throughout the year-and-a-half-long study, completed in October 1984, BW Associates' methodology included examining literature and analyzing all available data. But mainly, they listened to the observations and opinions of those directly involved with education in Minnesota — teachers, principals, parents and students.

The BW Associates team completed its work in October 1984. Their results came to the Minnesota Business Partnership in several parts:

- An Assessment of Minnesota K-12 Education: Student Performance
  - Volume 1, Summary
  - Volume 2, Findings
  - Volume 3, Appendix
- The Cost of Minnesota K-12 Education
- Demand and Supply of Public School Teachers in Minnesota

BW Associates' plan is truly unique because it not only proposes a way to bring education into the 21st century, but it also provides a cost-effective opportunity to do so.

MBP Educational Quality (K-12) Task Force

Company	**Member**	**Deputy**
AmHoist & Derrick Co.	Robert Fox	William B. Faulkner
Apogee Enterprises, Inc.	Russell H. Baumgardner	William G. Gardner
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3M	L. W. Lehr, Chairman	Donald H. Frenette

58 Businesses Funded The K-12 Study

The following member companies contributed a total of over $250,000 to the study of K-12 education in Minnesota.

AmHoist & Derrick Co.
Andersen Corporation
Apache Corporation
Apogee Enterprises, Inc.
Bemis Company, Inc.
Blandin Paper Company
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Super Valu Stores, Inc.
Tennant Company
Twin City Federal Savings & Loan Assn.
3M
Valspar Corporation
Webb Company

Minnesota Business Partnership, Inc.

The Minnesota Business Partnership is an association of chief executive officers of Minnesota-based corporations. It has two basic purposes:

- To help identify and analyze the state's longer-range economic issues and help set priorities and plans for action
- To participate in creating a political concensus between business and government and other groups in our society to help address these economic issues

To obtain copies of the BW Associates report on K-12 education in its entirety, contact: The Minnesota Business Partnership, 2406 IDS Center, Minneapolis, MN 55402, (612) 370-0840.

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Acknowledgments

We acknowledge the significant contributions of time and ideas from the staff of the state Legislature, the state Department of Education and statewide education leaders.

Special thanks go to 3M; Northwest Airlines, Inc.; Republic Airlines, Inc.; Carlson Companies, Inc.; Webb Company; Northern States Power; and First Bank System, Inc. for assistance, printing and materials.

A Mission for Minnesota Schools

The focus of our schools must be on students and learning.

The purpose of Minnesota's schools, kindergarten-12th grade (K-12), should be to facilitate each student learning to his or her highest level of attainment so he or she graduates skilled in the process of critical thinking, prepared for the responsibilities of citizenship and able to enter the work force. This purpose pertains whether a student continues in a formal post-secondary education program or moves immediately into the work force. Learning should provide students with basic skills, acquaint them with the wealth of knowledge that the human mind has discovered, and motivate them to use this knowledge, which will form the basis for enlarging their understanding of the world around them and for expanding the intellectual capacity and skills, which they will call upon during a life-long process of learning.

Formalized knowledge should be acquired through the study of curriculum that looks to the fundamentals of reading, writing, mathematics, science, citizenship and the arts, and prepares students for a world of rapid technological change in an increasingly competitive global economy.

Developed by: The Minnesota Business Partnership Educational Quality (K-12) Task Force

THE CLEARINGHOUSE ON
EDUCATIONAL CHOICE

November 11, 1985

Mr. Tim Conlin
Intergovernmental Relations Subcommittee
Hart 432
Washington, D.C. 20510

Dear Mr. Conlin,

Enclosed please find an analysis of nine public opinion polls on educational choice that I have done for The Clearinghouse on Educational Choice. This analysis is submitted for the record in connection with the subcommittee's hearing on educational choice held on October 22, 1985. I trust that the record is still open.

Sincerely,
Thomas R. Ascik
Thomas R. Ascik
Executive Director

Opinion Polls Analyzed

Is the Public Demanding Educational Choice?

The Clearinghouse on Educational Choice has analyzed the 1983 and 1985 Gallup Polls on Education and determined that young, non-white, urban parents with children in school are the group most likely to support educational vouchers.

In the 1983 Poll, respondents were asked whether they favored or opposed switching to a system of vouchers that could be used at public, private, or private-religious schools. Fifty-one percent of the general public, 51 percent of parents with children in school, and 51 percent of adults with no children in school reponded favorably. Non-public school parents favored vouchers more than public-school parents (64 to 48 percent), non-whites more than whites (64 to 49 percent), and those 18-29 year olds more than those 50 years and older (60-43 percent).

When the same question was asked in the 1985 Poll (see box for comparison), the percentage of the general public favoring vouchers fell to 45 percent. However, the decline was confined almost exclusively to that group of adults with no children in school. Forty-two of them favored vouchers -- down from the 51 percent of 1983. A majority (51 percent) of parents with children in school still favored vouchers. Support among public-school parents rose one percent from 1983, and support among non-public-school parents declined one percent from 1983.

A substantial majority of non-whites and the young maintained their support for vouchers, with the gaps between groups increasing. The gap between the percentage of non-whites and whites favoring vouchers was 16 percent (59 to 43 percent) in the 1985 Poll, whereas it had been 15 percent in 1983. The same gap between those 18-29 years old and those 50 years and older grew to 19 percent from the 17 percent of 1983. In addition, the 1985 Poll found that 53 percent of residents in the central city favored vouchers. A similar question was not asked in 1983.

Trends and Comparisons

The Gallup Poll on Education has been conducted for seventeen years, and the 1985 poll was the fifth to include a question about vouchers. The Poll has been conducted for seventeen years. Support for vouchers has fallen below 40 percent only once (38 percent in 1971) and has averaged 44 percent.

By way of comparison, Gallup has eight times asked the public whether they would vote to raise taxes for the public schools. Support for taxes has never received a majority and has averaged 38.25 percent.

In addition, the lead question in each Gallup Poll invites the public to grade the public schools. Over the last five years, when asked to grade the public schools nationally, the percentage of those giving a grade of A or B has averaged 22.6. Over the last nine years, when asked to grade the public schools in their own community, the percentage of those giving a grade of A or B has averaged 37.2.

Thus, the Gallup Poll has consistently shown that more Americans support parental choice in education than support higher taxes for education or than give the public schools high grades. In addition, the 1982 Gallup Poll found that 45 percent of public-school parents would send their children to private schools if there were no tuition.

Other Surveys

In the 1980's, other surveys and studies have explored the issues of parental choice and involvement in education. (See list below.) A 1985 survey of Boston parents of elementary-school children found that 69 percent of parents (and 80 percent of black parents) would enroll their children in public schools outside their immediate neighborhoods if they knew a school that had a good-to-excellent reputation, if transportation were assured, and if they were given the chance to do so. Another 13 percent reported that they would consider doing so, and only 15 precent said that they would definitely not do so.

A 1982 survey of Corpus Christi, Texas, adults found that 41 percent of repondents favored tuition "tax breaks" for those who send their children to "private or church schools." However, a majority (51 percent) of Hispanic respondents favored such tax advantages. Forty percent of blacks were in favor along with 35 percent of whites.

A 1985 poll by USA TODAY found that 91 percent of American adults think that more parental involvement is the best way to improve schools.

The National Center for Education Statistics (NCES) reported, in a 1983 survey, that parents overwhelmingly preferred (93 percent) tuition tax deductions as the best way for the federal government to finance college student aid. Among the seven options presented, transferring federal funds directly to educational institutions or to state governmental institutions received the least support.

Control over educational decisions

In the 1984 Gallup Poll, the public was asked who should have the greatest influence in deciding what is taught in the public schools. First place went to local school boards (27 percent). Next came parents (24 percent), followed by state governments (17 percent), teachers (11 percent), and the federal government (9 percent). Public-school parents, however, named parents first (30 percent) and local school boards second (25 percent).

Parental involvement in education and parental interest in educational decisionmaking were the primary themes of a 1982 study by the Southwest Educational Development Laboaratory (SEDL). study. When presented with a list of fifteen school decisions, parents showed the most interest in deciding the amount of homework assigned, choosing classroom discipline methods, evaluating how well children are learning, and setting school behavior rules. They were least interested in hiring and firing school staff.

When presented with a list of seven parent-involvement roles, parents showed the most interest in the traditional roles of audience for school activities, home tutor for their own children, and school program supporter. They also showed strong interest, however, in being advocates, co-learners with school staff, and decision-makers. They had only a mild interest in being paid to be an aide, parent educator, or assistant teacher. Overall, 46 percent of the parents indicated that they were definitely interested in playing the role of decision-maker, and another 30 percent said that they were probably interested.

Choice behavior

The Rand Corporation conducted a 1984 study of the Minnesota tax deduction program. In a survey of Minnesota parents, Rand found that most parents had actively chosen the schools of their children. "Active choosers" were defined as those who considered the quality of public schools when making a decision about residential location or who considered other schools when the time came to send their children to school. According to these criteria, a majority of both public-school (62 percent) and private-school (53 percent) parents could be considered choosers, that is, made one or both of the two choices.

Choice behavior was also investigated by the School Finance Project (1983) of the U.S. Department of Education. Fifty-two percent of public-school parents (only 33 percent of blacks) considered the quality of public schools as an aspect of their choice of residence, but only 20 percent of public-school parents (25 percent of blacks) considered schools other than the ones their children were attending when considering schooling alternatives.

Reason for current school choice

The Minnesota, Boston, and School Finance studies included questions about the reasons for school choice. Minnesota public-school parents who were active choosers listed school quality (29 percent of parents), followed by situational circumstances (21 percent), financial factors (19 percent), and convenience or proximity (18 percent), as the most important factors associated with their choices. Private-school parents most often listed school quality (38 percent of parents), moral and religious instruction (27 percent), and discipline (14 percent) as their own major reasons for electing private education.

With regard to the consideration of schooling alternatives, 29 percent of public-school parents cited the costs of non-public schooling as a reason for not even considering private schools. Fourteen percent of public-school parents who did consider private schools but decided against them cited the costs as a reason.

The Boston study asked parochial-school parents whether they selected parochial schools for the Catholic education offered or as alternatives to the public schools. Thirty-five percent of the parents replied that they selected parochial schools for the Catholic education offered, but 43 percent replied that they preferred parochial schools as alternatives to public schools.

In the School Finance study, the most important factors associated with current school choice for public-school parents who considered other schools were academic standards and courses (33 percent of parents), finances (20 percent), and transportation/convenience (15 percent). For private-school parents, the most important factors were academic standards/courses (42 percent), religion/values (30 percent), and discipline (12 percent).

Switching behavior

The Gallup, Minnesota, Corpus Christi, School Finance studies, and a study conducted in Montgomery County, Maryland, included questions about the reasons for switching between public and private schools.

In the 1982 Gallup Poll, 45 percent of public-school parents stated that they would send their children to private schools if the tuition were free, while 47 percent said that they would stick with the public schools. The major reasons that the potential switchers gave for wanting their children to attend private schools were: standards of education (28 percent of parents), better discipline (27 percent), and more individual attention (21 percent). Religious and moral reasons were listed by only 5 percent of the respondents.

The Minnesota survey presented two tax deduction models to the respondents. For a deduction of $500 for elementary-school children and $700 for for secondary-school children, 23 percent of those surveyed said that they would transfer their children from public to private schools. If the respective deductions were increased to $850 and $1200, 30 percent replied that they would transfer.

Of those parents who transferred their children from public to private schools in Montgomery County, religion was given as the most significant factor (43 percent of parents) only by those parents who transferred their children to church schools at the first grade level. Discipline was the next most important factor (29 percent). For parents who transferred their children to church schools at grades two-twelve, the most important factors were discipline (29 percent) and more individual attention (24 percent). For parents who transferred their children to non-church private schools, the most important factors were a better teacher-student ratio (43 percent) and mere individual attention (41 percent). By way of contrast, those who transferred their children from private to public schools did so overwhelmingly for reasons of cost and convenience (location, transportation, family move, etc.)

In the School Finance survey, 24 percent of public-school parents (19 percent of whites, 38 percent of blacks, and 44 percent of Hispanics) said that they would be very or somewhat likely to switch to private schools if they could receive a tax credit of $250. If the credit were $500, 32 percent of public-school parents (27 percent of whites, 47 percent of blacks, and 53 percent of Hispanics) said that they would be very or somewhat likely to transfer. If all tuition costs were paid, 45 percent of public-school parents (39 percent of whites, 61 percent of blacks, and 65 percent of Hispanics) said that they would be very or somewhat likely to transfer their children to private schools.

In the Corpus Christi study, 27 percent of public school parents responded that they would consider sending their children to private or church schools if tuition tax breaks were enacted.

Parental satisfaction with current school

The Boston and School Finance studies asked questions about parental satisfaction with their current schools.

In the Boston study, 55 percent of white parents but only 42 percent of black parents said that they were very or fairly satisfied with the education that their children were getting at school. Fifty-nine percent of non-public school parents, but only 44 percent of public-school parents, said that they were very or fairly satisfied. Eight percent of blacks but only 3 percent of whites reported dissatisfaction.

In the School Finance study, 87 percent of Catholic-school parents, 84 percent of other religious-school parents, 78 percent of independent private-school parents, but only 57 percent of public-school parents reported that they were very satisfied with their current schools.

By choice behavior, 84 percent of private-school parents, 62 percent of passive public-school parents (those who did not consider alternative schools), but only 38 percent of active public-school parents (those who did consider alternative schools) were very satisfied with their current schools. Only 5.4 percent of public-school parents, and less than one percent of private-school parents, reported that they were very dissatisfied with their current schools.

Race and Three Gallup Questions on Vouchers
(% in favor of vouchers)

	White	Non-White
1985	43	59
1983	49	64
1981	41	54

Two Gallup Polls on Vouchers
(% in favor)

Characteristics of Respondents	1983	1985
National	51	45
No children in school	51	42
Children in school	51	51
Public school parents	48	49
Non-public school parents	64	63
White	49	43
Non-white	64	59
18-29 years	60	55
30-49 years	52	46
50 and older	43	36
Central city	NA	53

(Table compiled by the Office of Evaluation, U.S. Department of Education)

MINNESOTA ASSOCIATION
OF
SCHOOL ADMINISTRATORS

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MINNESOTA
ASSOCIATION
OF
SCHOOL
ADMINISTRATORS

EDUCATIONAL POLICIES
1985-86

EDUCATIONAL POLICIES COMMITTEE
1984-1985

Adopted: September 17, 1985

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PHILOSOPHY

Education is a right that every citizen can expect society to provide.

The education system must be a just, equitable, and empathetic system. As such it must accept students as individuals and provide for their individual differences.

The education system has the responsibility to provide learning experiences in which individuals can become competent in those processes needed to maintain and improve society, and develop personal skills, values and ethics.

The education system shares with other human services agencies and the family the responsibility to assist individuals in developing and maintaining physical and emotional well-being.

GENERAL

1. Governmental Responsibility for Education

From constitutional and historical perspectives, the states are primarily responsible for education. All levels of government, however, play varying roles insuring that the educational needs of all citizens are met. Within the context of Minnesota law, local school boards play the central role in providing educational services. Tribal governments and many municipalities and countries support education-related functions and services, and the federal government plays an important but limited role. MASA belives that in order to insure effective and efficient use of limited public resources, the responsibilities of each level of government should be clearly defined in a manner that insures a coordinated public response to educational challenges.

A. Local School District Responsibilities

MASA acknowledges that all units of local government in Minnesota are creations of the state. However, within the context of state law, local school boards play the central role in providing educational services. MASA believes that local school districts in carrying out their responsibilies should:

Respect and implement the provisions of all federal and state laws which pertain to educational programs and processes.

Provide for policies, procedures, organizational, and administrative means necessary to manage the local school district.

Maintain a commitment to improvement of the quality of education within the school district.

Take into consideration and be sensitive to the differences in educational needs and problems of children and youth.

As appropriate, join with other school districts within the same region or on a state wide basis to pool resources to address common education issues.

Provide for participation of those responsible for, or affected by, local policies and programs including administrators, teachers, parents, students, community leaders, and other residents of the school district.

B.. State Responsibilities

MASA believes that the State has an obligation to establish policies to facilitate, encourage, and support local school boards in their governance of local public education and to provide the framework within which school districts may function with the greatest independence in terms of academic freedom and mangement consistent with state policy and reasonable requirements for public accountability. The State of Minnesota should carry out its educational responsibilities by establishing and maintaining an ongoing process at the level of the State Legislature, Governor, State Board of Education, and Commissioner of Education which provides for:

assessing needs in relation to changing demographic, economic, educational, and political conditions.

drawing upon research and evaluation findings to formulate and redesign policies and programs to respond to changing needs.

participation of those responsible for, or affected by, state policies and programs.

maintaining or developing the capacity for effective implementation of policies and programs in terns of organizational structure, leadership development, staff development, and training.

monitoring and enforcement of laws, rules and regulations for implementation.

evaluation.

MASA believes that the State has an obligation to:

a formal commitment to ensuring all persons within Minnesota an equal educational opportunity without regard to race, sex, national origin, handicapping condition, ethnic or cultural hertiage, economic or geographic location.

a commitment to policies and programs to maintain and enhance the quality of education in Minnesota.

a system of financing education that insures adequate and equitable financing of public elementary and secondary schools and to insure the continued strength of a diversity of post-secondary education institutions.

a system of accountability that insures proper and efficient use of public resources.

C. The Federal Role

MASA believes that the following areas of current and limited responsibility continue to be of such importance to the achievement of nationwide goals that the federal budget must reflect a share of the total investment necessary for their implementation:

Upholding and enforcing basic civil rights protections.

Investing in research and development to improve the quality of education.

Assisting in ensuring access and equal opportunity to education.

Providing vocational education to meet the nation's economic and other specific national needs.

Providing support in addressing needs of the handicapped student.

2. School District Organization and Cooperation

MASA members are encouraged to exert leadership roles in decisions relating to the effective organization of school district throughout the State of Minnesota. The following are important criteria to be considered:

Enrollment should be sufficient to enable each attendance unit to provide quality educational programs, in a cost effective manner.

School district organization should allow quality program offerings and effective education for students at an efficient cost.

Elementary schools within the limits of program effectiveness and economic efficiency should remain within a local community or neighborhood (desegregation programs excepted).

The primary objective of the secondary school should be to provide sufficient variety of program opportunities to meet each student's educational/vocational needs.

Geography and student travel time should be considered.

A school's social-economic effect on the community is important.

Organization decisions need to be made at the local school board level.

Positive financial incentives should be provided by the Legislature to encourage more effective district organization where needed.

School district pairing, cooperative and educational cooperative service units may be alternatives to districts in maintaining quality educational program.

3. Governance of Area Vocational-Technical Institues

MASA supports shared governance of Area Vocational-Technical Institutes between school district(s) and the State Board of Vocational Education.

FINANCE

4. State and Local Funding of Public Education

MASA considers it mandatory that the legislature keep its commitment to public education by funding the per pupil unit and categorical aids at a level that maintains Minnesota's traditionally first rate educational system for its children. The local property tax share of educational costs should be continuously scrutinized for inequities.

New acts of the Legislature and/or new rules or regulations adopted by state agencies which affect public schools should be accompanied by adequate support funds.

The Legislature should give the local school boards the authority to adjust costs commensurate with the levels of, and/or reductions in, funding.

5. Federal Funding of Public Education

All federally enacted laws or rules and regulations should be fully funded by the federal government. MASA continues to actively support the principle of forward funding of at least two years for all ongoing educational programs to enable all school districts to properly plan and organize for the most effective use of federal monies.

6. Funding of Non-Public Education

Based upon the principle of seperation of church and state, MASA believes public funds should not be expended, either directly or indirectly, to support non-public school programs or activities.

A state system which clearly defines a school and provides for the licensing of non-public school teachers at the elementary and secondary level is essential to insure that individual students will be provided access to a sound educational program.

ADMINSTRATION

7. The Superintendent and the Management Team

The management team of a public school district includes the school board, the superintendent, assistant superintendent, principals and other personnel designated by the superintendent.

The school board with the assistance and recommendations of the superintendent is the basic policy developer for the school district. The board sets the policy; the superintendent directs the implementation.

Within the total management team there should exist clear lines of responsibility and authority between the school board, the superintendent and other members of the management team. Fundamental to this process is the existence of basic position descriptions and organizational goals and objectives.

8. State Board of Education, Commissioner of Education and State Department of Education

MASA endorses an independent State Board of Education with sufficient authority to establish educational policy and adopt appropriate rules and regulations. The State Board of Education should recommend the appointment of the Commissioner of Education subject to approval of the Governor and confirmation by the Senate.

MASA believes that the Commissioner of Education, in order to perform successfully, leadership and service functions, should consult with and be advised by representatives of MASA and others concerning all matters which affect local school operations.

MASA supports a State Department of Education with sufficient highly qualified staff and budget to successfully perform its advisory service, and leadership functions.

EDUCATIONAL/INSTRUCTIONAL PROGRAMS

9. Goals and Objectives in Education

The State Board of Education is encouraged to continue its efforts toward the definition and updating of goals and objectives for the general and uniform system of Minnesota public education. Consultation and input from MASA and others should be a part of the updating process. A current statement is needed in order to provide criteria for assessment by the public, its elected representatives and agents. Further, a current statement is needed as a guide for determining the adequacy and allocation of resources to accomplish the state purposes.

MASA endorses the development of a goals and objectivies systems on the local district level for the purpose of improving educational programs and serving the needs of children. Once established, such systems should be given high priority.

MASA believes resources should be available to continue the work intitiated on the state level and to support the development and implementation of a goals and objectives system on the local district level. The main emphasis of these goals and objectives should be the educational welfare of the student. Further, MASA urges its membership to exercise strong leadership in continuing to develop such systems.

10. The Improvement of Instruction: Complete Involvement

The emerging concept of public education places demands upon school systems beyond their traditional role. The Legislature and State Board of Education, as well as local school boards, citizens, and faculties, must share the responsibility of establishing priorities. In order to accomplish this task, all services and needs of the educational community must be under constant review in light of present practicies and alternatives available for instruction, learning and resource utilization.

The superintendent of schools is the key figure in organizing staff and community for meeting these challenges. Close cooperation and development of the administrative team is an absolute requirement.

MASA believes that parent, student, teacher, administrator and school board member must be involved in the identification and planning for these many challenges on each level.

MASA also believes that the entire staff must be accountable for the instructional procedures and programs in the schools.

11. Instructional Program

A comprehensive educational program should be available to all residents. MASA believes in securing optimum educational opportunities for all persons throughout Minnesota. Educational delivery systems should be designed in such a way as to allow a variety of paths leading to completion of requirements for graduation from high school.

MASA supports the Planning, Evaluation, and Reporting (PER) legislation in establishing district-wide education goals and instructional objectives.

A continuous improvement of the quality of education for Minnesota public schools remains an MASA goal. Competencies in the basic skill areas, as well as all other areas of educational endeavor, are certainly included as part of the overall goal. MASA believes that minimum competency testing is a local district prerogative, and that determination regarding the use, or lack of use, of minimum competency testing is best made at that level.

12. Inservice

With the impact of change due to application of technolgoy within education and staff assignments due to reduction in force, there is a mandated need for continuing educational development for professional school personnel.

The assurance of quality in continuing education is an important concern of MASA. MASA accepts the challenge to offer opportunities to engage and participate in meaningful and worthwhile inservice. MASA supports the need, in an accelerated change pace, for the development of comprehensively designed systems for personal and professional development of all educational personnel.

13. Equality of Access To Educational Programs

It is a goal of MASA that each student has the right to equality of access to educational programs. Each student should have reasonable access to comparable programs and services within the limits of available resources. General, special and vocational opportunities should comprise elements of an acceptable standard program to be considered by local school boards in providing appropriate equality of access. Such educational access may be provided either individually or collectively under a variety of organizational and technical mechanisms according to the needs of each student.

14. Early Childhood Education

MASA believes that there are many benefits to be gained by all children from early childhood education. MASA supports legislation which would provide sufficient funding for such programs, provided that the K-12 program is adequately funded, and provided that a significant emphasis is on educating parents rather than on only providing direct services to students.

15. Exceptional Children

MASA supports the education of exceptional children, defined as including the gifted child, in a manner that is appropriate to each child's needs. The appropriate system safeguards should be used in the identification and placement process to assure that all exceptional children have equal access and availability to appropriate services: To achieve this goals, sufficient additional federal and state financial resources must be made available to local school districts to avoid adversely affecting other essential programs.

16. Student Needs

MASA urges its membership to work cooperatively with other child advocacy groups to develop and implement strategies of instruction and guidance designed to help children prevent, resolve, or cope with societal conditions, such as:

Teen-age pregnancies

Venereal disease

Violence

Addiction to alcohol, drugs, narcotics and tobacco

Teen-age suicide and other mental disorders

Varied family structures

Parental absence from the home

Excessive television viewing

Unhealthy nutritional intake

Child abuse

Unemployment

17. Discipline

MASA believes that the major emphasis of school discipline must be directed at the achievement of self-discipline in all students. MASA supports due process rights for all citizens: students, parents, teahcers, and administrators. MASA believes that the local school board has the responsibility to establish and implement written policies concerning student discipline.

PERSONNEL

18. Negotiations/Personnel

MASA believes that collective bargaining including negotiations, mediation, and arbitration is a reasonable strategy for the orderly resolution of labor relations issues.

Because educational work stoppages are so disruptive to the community, the educational process, the fundamental relationship between parent, student and district, MASA is opposed to strikes, as a strategy. MASA supports a more formalized process that would bring about resolution of collective bargaining differences, including but not limited to:

1. fact funding
2. public disclosure
3. restricting the number of strike notices possible
4. narrowing the scope of bargaining items
5. broadening arbitration options

Licensed and Classified Personnel

The superintendent/adminsitrative team must be a part of/or advisory to the board negotiating team.

Superintendent/Administrative Team

Collaborative procedures in the settlement of administrative contracts are desirable.

School boards should recognize compensation differentials for administrators.

Tenure for superintendents should be continued, as it is for all professional staff.

Licensed Personnel

Licensed personnel should be required to:

a) meet high education standards.
b) hold appropriate licensure.
c) demonstrate an aptitude for teaching.
d) demonstrate and maintain competence in his/her assignment.

In situations where reduction in force is necessary, local school boards should be authorized to reduce staff in a manner that guarantees appropriately licensed personnel with current and relevant experience and training in the area of assignment.

19. Equal Employment Opportunity

MASA endorses the concept of equal opportunity in employment. Equal opportunity should be available to all applicants in all areas of employment, job assignement, training, promotion, transfer, compensation and benefits.

20. Retirement

MASA believes that the purposes of public education in Minnesota are enhanced by an adequate and secure Teacher's Retirement Association (TRA) fund. Education services can be further improved by making the occupation of teaching in Minnesota more attractive to qualified persons through improved funding of the TRA. Legislative action is encouraged and should reward faithful and continued service by professional educators permitting dignity and security during retirement. It is essential that a retirement system be updated with emphasis of concern on areas such as assured and adequate funding.

21. Administrative Licensure and Relicensure

All administrative and/or supervisory licenses should be under the direct control of the State Board of Education.

MASA strongly supports a process of licensure and relicensure of administrators in which practicing administrators are accorded a majority of representatives on all boards, panels or committees developing or creating standards, rules, regulations or reviewing activities or programs of adminstrative professional development or entry into the professional of school administration.

22. Incentive Alternatives to the Single Salary Teacher Schedule

The MASA membership recognizes the need for continued gains in the quality and cost-effectiveness of public education. To that end, it is necessary to raise the level of teacher performance as well as increase student competencies throughout the state of Minnesota. Alternatives to the single-salary teacher schedule should incorporate productivity factors which reward master/superior teachers. A pilot program should be established in order to get the direction and criteria for a model incentive reward program for the state of Minnesota.

23. Teacher Preparation

The MASA membership recognizes the need to improve the preservice component of teacher preparation and to make teaching a more respected and rewarding profession. Teacher preparation institutions of Minnesota should set educational standards which ensure an aptitude for teaching which includes a knowledge of appropriate methodology as well as competency in an academic discipline appropriate for licensure.

EDUCATIONAL FREEDOM

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By Daniel D. McGarry

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EDUCATIONAL FREEDOM

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THE ADVANTAGES AND CONSTITUTIONALITY OF TUITION TAX CREDITS

By Daniel D. McGarry*

Since World War II, continuing inflation, escalating costs of education, and ever rising taxation by all levels of government have caused severe financial hardships and loss of students for private education. Numerous private schools and colleges on all levels have been forced to close, and nonpublic education in general has been imperiled. In the period from 1965 to 1976, enrollments in private elementary and secondary schools decreased by about 24%, falling from about 6,304,800 to about 4,804,000 students. Meanwhile the number of private elementary and secondary schools fell from about 19,984 to about 17,950, closing at a rate of about one every school day. In the same period, comparative enrollments in private colleges and universities as compared to public colleges and universities decreased by about 36%, falling from about 33% to 21% of the total enrollment in higher education, of which it had been about 50% in 1950. Even as financially starved private education was struggling to survive, increases in the government subsidization of public education per student were outstripping inflation two to one.[1]

Recognizing that American education is traditionally a joint enterprise of public and private agencies, and that it derives much strength from healthy diversity, competition, and comparison, legislators have sought to find means to stimulate and preserve private education alongside public education on all levels. But whereas the Supreme Court has approved practically every form of public subsidization of private higher education and help for its patrons as constitutional, the same court has declared almost every form of public aid for private elementary and secondary education and help for its patrons unconstitutional.[2]

I. TUITION TAX CREDITS

Proposals for Tuition Tax Credits

A proposed form of encouragement for private education and of assistance for its hard pressed supporters that has been obtaining increasing attention and support is federal tuition tax credits. The latter would consist in allowed deduction of part of the cost of tuition paid for basic education in calculating one's federal income tax. Allowance of income tax deductions for tuitions paid for education has been urged in Congress since the 1950's. But emphasis soon shifted from ordinary tax deductions (deductions from gross income in calculating taxable net income) to tax credits (deductions from tax due after other calculations have been made). This is because the latter would be more equitable and essentially the same for all, regardless of tax bracket.

At first tax deductions and tax credits were advocated only for college and university tuitions, but subsequently they were also urged for elementary and secondary school tuitions. In the decade from 1953 to 1964, some 450 tuition tax credit bills were introduced into Congress. From 1963 to 1978 the Senate passed six (6) tuition tax credit bills for higher education, but each time those were killed in the House Ways and Means Committee. In 1978 over 170 tuition tax credit bills were introduced into Congress. The most successful of these, known as the Packwood(R)-Moynihan(D) Bill in the Senate and the Burke(D)-Frenzel(R) Bill in the House, would have applied to all levels of education and all forms of basic education. It passed in the House and was on the verge of passing in the Senate. But it was strenuously opposed by the

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[1] Statistical Abstract of the United States, 1980 (Washington, D.C.: U.S. Department of Commerce, 1980), pp. 138-40.

[2] See below.

National Education Association and other public school organizations and was sidetracked by the Carter administration and certain Senators.[3] As a result the bill was substantially modified in the Senate and died while being reconsidered by a Joint Committee. This bill has been subsequently reintroduced in Congress.[4] President Reagan has urged provision of tuition tax credits for elementary and secondary education.

Forms of Tuition Tax Credits

There are four possible forms of tuition tax credits currently advocated:

1. Tuition Tax Credits for Higher Education Alone.

Tuition tax deduction--both as ordinary tax deductions and as tax credits were first advocated in Congress only for higher education. Recently Senator William V. Roth, Jr. (R) has strongly advocated tuition tax credits for higher education. Since other forms of aid are available for higher education, however, pressure for this form of assistance has been less than for other plans. Senator Roth and other supporters have accordingly also supported bills that would provide tuition tax credits for all levels of education.

2. Tuition Tax Credits for All Levels of Basic Education.

A popular form of tuition tax credits, very popular with parents, that is currently being advocated is tuition tax credits for all levels of basic education: elementary, secondary, vocational, and higher. A representative measure that would provide this form of assistance is the Packwood-Moynihan Bill, which almost passed Congress in 1978.

The Packwood-Moynihan Bill, still advocated in Congress, would apply, as noted, to all forms of basic education on all levels: elementary, secondary, vocational, and higher (college and university). It would allow a tax credit of up to $250 the first year and up to $500 in subsequent years for 50% of the cost of tuition. The ceiling for the tax credit would be $250 the first year and $500 thereafter. In order to obtain a tuition tax credit, the student would have to attend an educational institution that did not exclude persons "on account of race, color, or national or ethnic origin." As presently constituted, the Packwood-Moynihan Bill also includes a "refundability" feature, whereby, if a payer of tuition does not have sufficient income tax liability, the difference will be refunded to him by the Treasury (presumably from other taxes he has paid or will pay).[5]

3. General Educational Tax Credits for Elementary and Secondary Education That Include Tuition Tax Credits.

A third form of allowance of tuition tax credits is provision for general educational tax credits for various expenses of elementary and secondary education that would include tuition. Two states--Minnesota and Louisiana--currently allow tax credits or deductions for various expenses of elementary and secondary education. Eligible expenses include pens and pencils, paper and notebooks, textbooks and equipment (such as musical instruments and calculators), uniforms (such as those for band and sports), special fees, transportation, remedial instruction, special tutoring, and summer school tuition as well as regular tuition. Such tax credits are available for expenses in public schools as well as in private schools.

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[3] Including Senators Hollings, Hodges, and Eagleton.

[4] For the story of tuition tax credits in Congress, see Roger Freeman, "Educational Tax Credits," in Tuition Tax Credits: Hearings Before the Subcommittee . . . Senate . . . 1981, in 2 Parts (2 vols.) (Washington, D.C., U.S. Government Printing Office, 1981), Part 2, pp. 503-505; hereinafter cited as Hearings, Senate, 1981. See also Congressional Record, 95th Congress, 2d Session, vol. 124 (1978).

[5] For the text of the Packwood-Moynihan Bill, see Congressional Record, vol. 127, no. 29, Senate (Washington, D.C., Feb. 24, 1981), pp. 3-4.

4. Tuition Tax Credits for Elementary and Secondary Education Alone.

A fourth form of tuition tax credit legislation would make the latter available for elementary and secondary education alone. This type of tuition tax credit legislation would have the advantage of being targeted on that form of education currently in most need of help, and also of being the least expensive. On the other hand, it would be more open to question by the Supreme Court since its beneficiaries would mainly be patrons of church-related schools. This form has been proposed by the Reagan administration.

Tuition tax credits as proposed, would be a form of tax deduction, although they would differ from ordinary tax deductions. Whereas ordinary tax deductions are subtracted from gross income in calculating net income subject to taxation, tax credits are subtracted directly from tax due. Tax credits are more equitable than ordinary tax deductions because the value of ordinary tax deductions depends on one's income tax bracket, and is greater for a person or family with a larger income and in a higher tax bracket (such as 30-40%) than it is for one in a lower tax bracket (such as 5-20%). A tax credit, on the other hand, is dependent only on expenditures, and not on income, and gives equal expenditures for persons with lower incomes as it is for those with higher incomes. Tuition tax credits would accordingly be of the same advantage to the poor as they would be to the rich.

Opponents and Proponents of Tuition Tax Credits

Organizations that oppose any government aid for private education, strenuously oppose tuition tax credits. At the fore among opponents are associations of public educators, some groups of patrons of public schools, and organizations that oppose either traditional religions in general or Catholicism in particular.[6] Opposition is chiefly directed against tuition tax credits for elementary and secondary education. This is partly because church support for higher education is much more general and diversified, whereas the majority of private elementary and secondary school patrons are Catholic. Among opponents of tuition tax credits are the National Education Association (dominated by public educators), various other associations of public school teachers and administrators, the National Coalition for Public Education, Americans United for the Separation of Church and State, the American Jewish Committee, and the Public Education and Religious Liberty Association.[7]

Among organizations supporting tuition tax credits are Citizens for Educational Freedom, the Council for American Private Education, the Association for Public Justice, the National Institute of Education, the American Enterprise Institute for Public Policy Research, the Heritage Foundation, and various Catholic, Lutheran, Christian Reformed, and (some) other Christian and Orthodox Jewish organizations.[8]

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[6] About 63% of private elementary & secondary school students in the United States today are Catholic. See Catholic Almanac 1981 (Huntington, IN 1980):255.

[7] Most opponents would apparently welcome a public school monopoly of education.

[8] Churches maintaining day schools are particularly active supporters of tuition tax credits. Orthodox Jews, who maintain their own day schools, generally support them, whereas "Reform" Jews, who patronize public schools, generally oppose them. Additional groups include the American Association of

II. ADVANTAGES OF TUITION TAX CREDITS

Arguments for Tuition Tax Credits

Among considerations advanced on behalf of tuition tax credits are arguments that they would: 1. Make our taxation policy more consistent; 2. Be more just and equitable for tuition-paying parents of private school students; 3. Contribute to the survival and health of private education; 4. Help to preserve private enterprise and progress in education; 5. Contribute to the health and welfare of public education; 6. Maintain essential personal and familial freedoms; 7. Avoid the establishment of a national religion of secularism or secular humanism; and 8. Be efficient as well as equitable ways of promoting education. Let us briefly consider each of these arguments:

1. Tuition tax credits would make our tax policy more consistent. Currently our tax policy: a) Allows deduction of educational expenses paid through taxes, but not for those paid by tuitions; b) Allows deductions by way of standard exemptions for the physical support of children, but not for their intellectual and spiritual preparation; c) Allows deductions for voluntary payments or contributions to churches which one attends, but not voluntary payments or contributions to church-related schools attended by oneself or one's children; d) Allows deduction for the expenses of day-care and education of pre-school children of parents who work, but not for those for the education of the same children of the same parents after they reach official school age; e) Allows deduction of most educational expenses after one has finally graduated and engaged in gainful employment, such as the expenses of education demanded by one's employer or useful in one's profession or needed to obtain new employment), but not of the expenses of necessary education prior to entrance into the workaday world; f) Allows deductions for investments of capital that will eventually produce or increase income, but not for such investment of capital in education (at least prior to regular employment). Obviously there is some inconsistency--perhaps even some prejudice--involved in these paradoxes.[9]

2. Allowance of tuition tax credits would be more just and equitable for tuition-paying parents. Currently parents of children who attend nonpublic schools pay stiff taxes[10] for the financing of the education of the young, but they and their own children are denied any share in such tax benefits simply because they attend other than public schools. Such parents pay twice for education: once for the education of all children other than their own, and again for the education of their own children.[11] Yet most of such parents are no better off financially and many are less "well fixed," than

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Christian Schools, the Center for Independent Education, the Catholic Central Union of America, the National Association for the Legal Support of Alternative Schools, the National Association of Christian Schools, the National Association of Independent Schools, the National Christian School Association, and the National Union of Christian Schools.

[9] For comparable tax deductions and exemptions allowed by our federal income tax code see the United States "Internal Revenue Code," Title 26 in vol. 7 of the *United States Code* (Washington, D.C.: U.S. Government Printing Office, 1977), §§ 141, 151-55, 161, 162, 164, 170, 212 (Sections 2010, 2013, 2030, 2050, 2107, 2520-2522, 3025, 3201). See also *J. K. Lesser's . . . Income Tax Guide, 1982* (New York: Simon and Schuster, 1982), §§ 1, 6, 14, 19.

[10] A lion's share of state and local taxes go for education.

[11] The current annual cost of public elementary and secondary education is estimated to be about $120 billion, with the average annual per pupil cost about $3,000, paid for by taxpayers through direct and indirect taxes (federal 9.8%, state 43.9%, and local 46.3%). The median annual cost per student in

their counterparts who take advantage of free public education.[12] Such parents usually send their children to special schools, such as church-related schools, because of their conscience and concern for the full development of their children, or because of the latter's special needs. The Supreme Court has said that such parents have the right "to control and direct the education of their children,"[13] yet has denied them the right to participate in the tax funds they themselves help to provide, *if* they send their children to church-related schools. Allowing such parents a small tax deduction for part of the expense they incur in educating their children--education mandated by and satisfying the state--would seem to be only fair.[14]

3. Tuition tax credits would contribute to the survival and health of private education, which is in itself a good. Private schools offer educational alternatives for parents, students, and teachers. Private elementary and secondary schools today educate some five and a half million students; private colleges and universities about two and a half million students.[15] These students are an important resource of our country. That they should have a good education is important for the welfare of all Americans. So too is their own happiness, success, and fulfillment, which is earnestly desired by their parents and promoted by their education, Private education fulfills the strong desires and perceived needs of a large number of free American citizens and their children. Often the latter need a special sort of

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private elementary and secondary schools is estimated to be about $1200, mainly borne by parents. The total annual public higher education is estimated to be about $62 billion, or about $6500 per student. The public cost of public higher education is estimated to be about $31 billion, with the average annual per pupil *public* cost about $3300 per student (public cost: cost to the public, as opposed to total cost and private cost). See *Digest of Educational Statistics, 1981* (Washington, D.C., National Center for Education Statistics, 1981), pp. 6-7 and 21-22; *Statistical Abstract of the United States, 1980* (Washington, D.C., Bureau of the Census, Dept. of Commerce, 1980), pp. 140-41; *Projection of Education Statistics to 1986-87* (Washington, D.C., National Center for Education Statistics, 1978), pp. 14-15, 90-91, and 99-101; *Condition of Education, 1980* (Washington, D.C., National Center for Education Statistics, 1980). Table 2.1, as well as *Bulletin*, Oct. 23, 1979. Cp. E. G. West, Testimony, in *Hearings*, I, 217 and 219-20.

[12] See below concerning financial status of private school patrons.

[13] Cp. *Pierce v. Society of Sisters*, 268 U.S. 510 (1925) at 534-35.

[14] Average parents educating a child in a private school forfeit a value of about $3,000 per year (the average per pupil cost of public elementary and secondary education), while average patrons of private higher education forfeit public subsidization of about $1500 per student (the difference between public subsidization of public higher education and public subsidization of private higher education, per student). Meanwhile such parents must pay for the high private costs of private education (about $1200 instead of 0 per year for private (as opposed to public) elementary and secondary education, and over $3,000 per year as opposed to about $650 for private (as opposed to public) higher education). Parents who pay taxes for public education but have no children do not make this sacrifice, since they neither forfeit a right nor pay an additional amount. For estimates, see *Digest of Education Statistics 1981*, pp. 6-7 and 21-22; *Statistical Abstract of the United States, 1980*, pp. 138-41; and *Projection of Education Statistics to 1986-87*, pp. 14-15, 90-91, and 99-101.

[15] See *Digest of Education Statistics, 1981*, p. 6; *Statistical Abstract of the United States, 1980*, p. 140; and *Projection of Education Statistics to 1986-87*, pp. 14-15.

education unavailable in standardized public schools--education they can obtain in private schools. Examples include education that pays more attention to certain subjects, uses different methods, puts more emphasis on discipline or homework, involves living and boarding at the school, or includes religion and religion-based morality along with secular subjects. Such education confers benefits upon both the student and the community; but it also usually means considerable extra expense for parents whose ability to pay their taxes is thereby diminished. Since by assuming the expense of educating their children such parents are saving taxpayers billions of dollars[16] as well as promoting the good of society, it would seem that they deserve at least tax credits for part of the costs they incur.

4. Tuition tax credits would help to preserve private enterprise and its advantages in education. Private enterprise is an important stimulus in most fields; in things of the mind it is indispensable for progress. The presence of private enterprise and competition is one of the greatest assets of the so-called "capitalistic" or "free enterprise" system in the Western democracies; its absence is one of the weaknesses of Communist systems.[17] Elementary and secondary education in this country today is 90% governmental and "socialistic" in the sense that it is paid for by the public at large (overall education 86%, if we include higher education).[18] Without private schools and colleges, education would be 100% governmental or socialistic--with all the disadvantages of a deadening government monopoly.[19] Private enterprise in education, as in other fields, permits and encourages competition, diversity, change, experimentation, adjustment, and progress. Among Communist countries,those such as Hungary which have retained an element of private enterprise in their economy are the most productive and

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[16] Parents sending their children to private elementary and secondary schools save taxpayers approximately $13,750 million ($13.75 billion) a year, while patrons of private colleges and universities save taxpayers an estimated $5,000 million ($5 billion) a year. See Digest, as quoted, pp. 6-7 and 21-22; and Projections, as quoted, pp. 14-15, 90-91, and 99-101.

[17] Absence of free enterprise and competition in Communist countries has led to overproduction of lethal weapons and excessive militaristic expenditures, together with a shortage and imbalance of consumer items, resulting in widespread popular dissatisfaction. Private agriculture, when allowed, has far outstripped collectivist agriculture as in Russia. While Communist countries presently have the advantages of competition with free enterprise countries, and of innovations introduced by free enterprise in the latter, their economy tends in the long run to become more static, and certainly less satisfying to the workers, especially in agriculture. See Eugene Lyons, Workers' Paradise Lost: Fifty Years of Soviet Communism . . . (New York: Funk and Wagnalls, 1967), especially pp. 141-92 and 211-26; Morton A. Kaplan, ed., The Many Faces of Communism (New York: Macmillan (Free Press), 1978), especially pp. 194-227, 266-78, and 333-52; Teresa Rakowska-Harmstone and Andrew Gyorgy, Communism in Eastern Europe (Bloomington: Indiana University, 1979), especially pp. 37-76, 77-99, 100-20, and 213-43; and Evelyn Geller, Communism . . . (New York: H. W. Wilson, 1978, especially pp. 21, 23-25, and 528.

[18] See Digest of Educational Statistics, pp. 21-22.

[19] Current possible examples of deadening monopoly and near-monopoly include our Postal System and public education in our cities. Monopoly, which eliminates competition, tends to stifle free enterprise and innovation, and thus decreases progress. Government monopoly also tends to smother individual freedom and kill the human spirit and its vigor and creativity. Cp. John M. Clark, Competition as a Dynamic Process (Washington, D.C.: Brookings Institute, 1961); and George W. Stocking and Myron W. Watkins, Monopoly and Free

prosperous.[20] Public education itself actually evolved out of private education. Private enterprise in education has led the way in most new developments and improvements in education in the last century (as well as earlier), including kindergartens, vocational education, physical education, special education for the handicapped, education of the blind and deaf, evening schools, enriched programs, adult education, teacher training, small classes, individual instruction, combined study and work programs,[21] and experimentation with special educational methods, such as the Montessori, Berlitz (conversational) and Gestalt methods.[22] It even pioneered "Progressive Education."[23] Interracial education as well as the advanced education of blacks and that of women were also first instituted by private education.[24]

5. Preservation and promotion of private education helps to ensure the continued health and progress of public education. Private education provides salutary competition and comparison for public education. Much of the progress, as well as the very origin of public education has resulted from an imitation of private education. Public education cannot long lag behind

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Enterprise (New York: Twentieth Century Fund, 1951). Avoidance of monopoly is an objective of our anti-trust laws; see Carl Kaysen and Donald Turner, *Antitrust Policy* . . . (Cambridge: Harvard University, 1959).

[20] To the degree that they have been able to retain, at least for a time, a certain amount of private enterprise, Communist countries such as Yugoslavia, Hungary, Czechoslovakia, and Poland have been able to stimulate certain aspects of their economy. See works of Lyons, Kaplan, Rakowska-Harmstone and Gyorgy, and Geller, cited above.

[21] See William W. Brickman, "Historical Background for Freedom in American Education," in *Educational Freedom*, ed. Daniel D. McGarry and Leo Ward (Milwaukee: Bruce, 1966), pp. 1-22, especially at 4, 5, 8-10, and 17; cp. Ernest B. Chamberlin, *Our Independent Schools* (New York: American Book Co., 1944); Robert F. Seybolt, *Source Studies in American Colonial Education: The Private School* (Urbana: University of Illinois, 1925); articles by William W. Brickman and James P. Shannon in *The Role of the Independent School in American Democracy* (Milwaukee: Marquette University, 1956), pp. 61-82 and 83-92; Lawrence A. Cremin, *The Transformation of the School: Progressivism in American Education* . . . (New York: Knopf, 1961); and Mina C. Vanderwalker, *The Kindergarten in American Education* . . . (New York: Macmillan, 1908).

[22] The Montessori method, pioneered by Marie Montessori, stresses stimulation of children's natural instincts and encourages guided voluntary projects; the Gestalt method stresses learning by wholes, with comprehension of parts as components of wholes, rather than wholes as combinations of parts; while the Berlitz method stresses the learning of languages directly through conversation.

[23] "Progressive Education" was developed by John Dewey in the private Laboratory School of the (private) University of Chicago as well as at the (private) Columbia University in New York. This "Progressive" education stressed experimentation in education, adaptation of education to existing society and child psychology, and use of natural pupil interests and voluntary projects, as well as deemphasis of memorization, formal learning, and conformity to adult norms. See Lawrence A. Cremin, *The Transformation of the School* . . ., as cited above.

[24] See William W. Brickman, "Historical Background . . .," as cited above, p. 10; and Edward F. Frazier, *The Negro in the United States* (New York: Macmillan, 1957), pp. 418-20, and 450-56.

private education without arousing public criticism. If it were not for private education, parents would have no choice but to send their children to the nearest public school, no matter how bad it might be. Neither would they have any means of comparison. Private education constitutes an ever present potential "escape hatch" for parents, students, and teachers alike--for the benefit of all, including even the eventual profit of public schools. When public education tends to become fat, saucy, self-complacent, and inefficient, private education can shame it into improving as well as show it how to become better. As one public educational administrator has observed, if we did not have private education, it would be necessary to invent it. Private education prevents the paralyzing bureaucratic deadhand that would probably result from a prolonged government monopoly of education.[25] At the same time private education can preserve effective, time-tested methods and components in education when they are being temporarily abandoned by public education, as has been the case with continuing emphasis on basics, such as the three or four R's, learning the sounds of the letters of the alphabet in instruction in learning to read, memorization of tables in arithmetic, study of spelling and grammar, and retention of grading, homework, and discipline, as well as instruction in religion and traditional morality.[26]

6. Tuition tax credits will also serve to preserve and enhance our freedom, our most precious human asset. They will help to protect some of our most essential personal and familial liberties, including freedom of thought, freedom of communication, freedom to practice and transmit religion, freedom of unpenalized choice in education, and parental freedom to control and direct the upbringing of their children, exempt from state domination. A state monopoly of education, towards which we have been steadily moving by our taxing and educational financing policy, would eventually be fatal to full freedom of thought, communication, and religion, as well as to key parental and personal rights. Our public schools inculcate only secular concepts and values that are currently acceptable to the majority of our population, especially those favored by school administrators and teachers. Our public schools are prevented by judicial decrees as well as the religious diversity among our population from inculcating religious concepts and values, even general ones which might be acceptable to the majority of the population. Acceptance and encouragement of private as well as public schools, as manifestations of the liberties of free citizens, are characteristic of free democratic countries, such as England, France, Western Germany, the Scandinavian countries, and Canada and Australia. Only in the United States, among such democracies, are students in nonpublic schools excluded from any share in public financing by a special quirk of educational history.[27] By its educational financing and taxation policies (whose emendation has been opposed by the Supreme Court) the United States is as effectively (if more gradually and surreptitiously) smothering private education on elementary and secondary

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[25] See above.

[26] Criticism of inadequate instruction in "the basics" in our public schools is widespread. It is a recurrent major theme in former California Superintendent of Public Instruction Max Rafferty's syndicated newspaper column.

Preservation of the basics in private schools is attested by the recent study by James S. Coleman, *et al.*, *Public and Private Schools: A Report* (Chicago: National Opinion Research Council, 1981). See also James S. Coleman, "Testimony" in *Hearings*, II, 76-77 and 103-104.

[27] Cp. Daniel D. McGarry, "International Panorama: World Survey of Aid to Independent Education," in *Educational Freedom*, ed. Daniel D. McGarry and Leo Ward (Milwaukee: Bruce, 1966), pp. 56-64.

levels (while allowing its survival on more advanced levels), as are Communist countries by direct decrees and forceful suppression. In this field at least, the United States has unintentionally joined the company of countries like Russia and China, to which private education is anathema, as being dangerous to political uniformity and Marxist ideology.

7. Allowing tuition tax credits will help to avoid complete secularization of our country. It will prevent the effective establishment of a national "religion" of secularism (or "secular humanism," as it is often called), by the exclusive subsidization and encouragement of entirely secular public education. Whereas our private schools, which are entirely voluntary, can and usually do teach and inculcate traditional religions and religious values, our public schools, which originally also did this, are barred from such a course. The diversity of views and religions among our population, which was earlier much more homogenous, prevents this, as also do decisions by our courts, including our Supreme Court.[28]

Our public schools are accordingly compelled to confine themselves to secular subjects, secular concepts, and secular values. At least negatively, by omission and exclusion, and sometimes also positively, to fill a gaping vacuum, our public schools inculcate an entirely secular outlook and exclusively materialistic or temporal values. Exclusive governmental subsidization and encouragement of such entirely secular education amounts to an establishment of secularism or secular humanism,[29] which our Supreme Court has recognized as a "religion": a dominant set of ultimate values that guide one's life.[30] The results of this policy of exclusive fiscal support of antiseptically secular education are already being experienced in this country.

8. Finally, tuition tax credits would be an efficient and equitable way of promoting education. They would be simple and direct, would not involve any overhead, and would be almost 98% cost-effective. They would not require any notable increase of our governmental bureaucracy, or any extensive additional governmental regulations and controls. They would not necessitate any additional government involvement with private schools or sponsoring churches. The sole direct relationship involved would be between individual taxpayers and the I.R.S., and that would consist solely in spotchecking whether the taxpayer paid the claimed tuition to a qualifying school, and whether the latter did not discriminate because of race, color, or national or ethnic origin--something already required for tax exemptions. Such tuition tax credits would meanwhile somewhat diminish the present penalization and deprivation imposed upon parents who exercise their rights of controlling the education of their children and enjoying free exercise of religion The psychological encouragement of parents who pay for the tuition of their children would probably far exceed the actual value of the tuition tax credits, with resultant savings for taxpayers.

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[28] Cp. Daniel D. McGarry, Secularism in American Public Education and the Unconstitutionality of Its Exclusive Governmental Support (St. Louis: Social Justice Review, 1980).

[29] See ibid.

[30] See Supreme Court dicts and decisions in Torcaso v. Watkins, 367 U.S. 488 (1961) as at 495; and United States v. Seeger, 380 U.S. 163 (1965) as at 184.

Arguments of Opponents Against Tuition Tax Credits Answered

Among arguments urged against tuition tax credits by opponents are assertions that they would: 1. Be too expensive; 2. Mean unequal funding of private and public education by the federal government; 3. Benefit the more affluent as opposed to the more needy; 4. Promote racial segregation; 5. Seriously threaten public education; and 6. Be unconstitutional.[31] Let us consider each of these arguments.

1. It is alleged that federal tuition tax credits would be too expensive.[32] This is a strange argument coming from advocates of public education whose costs have risen astronomically in the past two decades, at a rate exceeding inflation, and continue to rise despite a declining number of students and decreasing effectiveness.[33]

There is a basic fallacy in a supposition that abstinence from taxation is a governmental expense. This requires an assumption that all our gross national product and all our personal income belongs to the government. The present administration was elected largely because of a promise to reduce taxes: both general taxes and particular ones. One form of promised tax relief was allowance of tax credits for tuition.

But even supposing that allowing tuition tax credits represents a sort of government expenditure as a foregoing of potential government income, such would still ensure continued and probably additional savings for taxpayers in general, especially in the case of elementary and secondary education. In the latter field--that of elementary and secondary education--tuition tax credits will help ensure continued annual public savings of several billions of dollars. The average per pupil cost of students in public schools for taxpayers is estimated to be about $3,000, and the reduction in public school costs for each pupil not educated in public schools would be about $2,500.[34] This cost and this saving for the public has been rising annually at twice the rate of inflation.[35] The estimated 5,500,000 students currently attending private schools accordingly save taxpayers at large some $13.75 billion dollars ($2,500 x 5.5 million = $13.75 billion). If tuition tax credits can arrest the serious decline in the number of students in private schools seen in the last two decades, they will ensure a continuation of these large savings of $13.75 billion a year, at a minimal cost. Supposing maximum tax credits of $500 for all these 5.5 million students, the highest "cost" of elementary and secondary tuition tax credits would be 2.74 billion dollars, which, subtracted from 13.75 billion dollars would still mean an ensured saving of 11 billion dollars. The actual "cost" would be much less.

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[31] Several organizations (often "overlapping") opposing tuition tax credits have been mentioned above, while others are referred to in following footnotes as offering various objections to tuition tax credits. Most private school proponents, even the most conservative, support tuition tax credits as involving only a minimal threat of any more governmental interference than that already involved in the tax exemptions of private schools.

[32] This objection was proposed by the American Jewish Committee, the National Education Association (NEA), and the National Coalition for Public Education Association in the 1981 Senate Subcommittee Hearings. See Hearings, I, 178-79; and II, 156 and 253.

[33] In the two decades from 1960 to 1980, the current dollar per pupil cost of public elementary and secondary education rose over five (5) times and the adjusted dollar cost over two (2) times, or over twice the rate of inflation. See Digest of Education Statistics 1981 (National Center for Education Statistics), p. 82.

[34] See Digest of Education Statistics, 1981, pp. 6-7 and 21-22; and Projection of Education Statistics, pp. 14-15 and 90-91. (The facial reduction of $3,000 is reduced by $500 for practical considerations.)

[35] See above.

It is supposed, with some plausibility, that if tuition tax credits are allowed, some parents, who would not otherwise do so, will send their children to private schools instead of public schools. If only 5% of the students who would otherwise attend public schools attend private ones instead because of tuition tax credits, this will eventually save taxpayers at large some 4.4 billion dollars annually ($2,000 (2500-500) x 2.2 million students = $4.4 billion). This would actually be 1.66 billion dollars savings above and beyond the total original "cost" of tuition tax credits, even without counting the above mentioned ensured annual savings of eleven billion dollars.

The aforesaid annual savings to taxpayers are, and will be reflected in proportionately increased revenues of the federal government, due to the avoidance or reduction of tax deductions for local and state taxes supporting public education that decrease personal federal income taxes. If we suppose a 20% average income tax for families with children in school, the 5.5 million students in private schools which annually save the federal government $13.75 billion dollars of deductions from gross income in calculations of net taxable incomes would actually annually save the federal government $2.35 billion ($13.75 billion x 20% = $2.35 billion) of tax money that would otherwise be deducted from tax due. This has not been included in the above calculations, to which it could be added. This saving alone would come close to equaling the cost of elementary and secondary tuition tax credits.[36]

With regard to tuition tax credits for higher education, the situation is somewhat different. Students in public colleges and universities usually pay some tuition and required fees that would be eligible for tax credits, on the one hand, while private colleges and universities and their students are given some help by federal and state governments on the other hand. As a result the costs to the public for tuition tax credits for higher education will be greater, and the overall savings effected for the public will be lower than in the case of elementary and secondary education, though probably about equaling the "costs" at the beginning and somewhat exceeding them in the course of time. Since we are already committed to helping both private and public higher education, and especially those parents who bear most of the burden thereof, tuition tax credits for higher education must be considered, not from the point of view of cost, but rather from the point of view of efficiency among alternative means to be used. Here arguments for tuition tax credits stated above apply.

Although the current per student costs to the public for public higher education are higher--about $3,500 per student per year--then they are for public elementary and secondary education--about $3,000 per student per year--the difference in the public cost (the cost for the public) per student in private and public institutions of higher learning is less, being about $2,000 per student.[37] This is because our federal and state governments subsidize private higher education to some extent, helping both institutions and students, and being allowed to do so by favorable Supreme Court decisions. The ensured continued savings by private higher education for the public with tuition tax credits of $500 would be about $3.75 billion ($2,000 per student minus $500 per student = $1500 saving per student x 2.5 million students = $3.75 billion). On the other hand, according to estimates, the additional cost of tuition grants for *public* higher education could rise to about this, thus wiping out this saving. Without consideration of the continued savings for the public by a continuation of private higher education, the total "cost" of tuition tax credits for higher education, both public and private, could come to about $5 billion, although it would probably be considerably less.

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[36] The estimates concerning the tax rate of the average family with children in public school (who might transfer to private school), as well as the income tax deductions actually taken are hypothetical, so that the savings for the federal government might well be considerably less, although they would still be substantial.

[37] *Digest of Education Statistics 1981* (Bureau of Education Statistics, 1981), pp. 7 and 22, with extrapolations.

On the other hand, we and our governments are committed to helping promote both public and private higher education, and the hard pressed parents who pay tuitions and required fees for such education, which greatly benefits our country. Aid will continue to be given and will probably also increase in this field. Among alternative means of public assistance are tuition tax credits, which directly help the parents who pay for higher education, and which are about 100% cost efficient. While tuition tax credits will not help colleges and universities directly, they will help them indirectly by helping parents send their offspring to them. It is *parents* who at present need help the most. If the colleges and universities desperately need some of the help provided by tuition tax credits, they can raise their tuitions somewhat (which they will probably continue to do anyway), but this will be something between them and their patrons and dependent on the latter's acceptance. Meanwhile taxpayers at large will continue to profit from the survival, and continued welfare, and enhanced use of private colleges and universities.

2. Another argument advanced against tuition tax credits is that thev would mean *unequal funding* per student for private and public pre-college education by the *federal government*.[38] The basis of this argument is that federal funding of public education is currently estimated to be about $250 per student,[39] whereas allowances for tuition tax credits could amount to up to $500 per student. This argument fails to take into account the true nature of tuition tax credits, the total picture of public funding of public as opposed to private education, the inclusion of public higher education in the benefits of proposed tax credits, the "unequal" nature of most federal funding, and the fact that federal funding of education is supplemental rather than basic. As has been seen, tuition tax credits are not "funding" at all, but simply abstinence from taxation, as the Supreme Court itself has observed.[40a] If *all* public funding of education by our state and local governments as well as our federal government is taken into account, the help for private elementary and secondary education provided by tuition tax credits is both minimal and indirect as compared to the complete direct public subsidization of government elementary and secondary schools. Finally, most federal funding is unequal. This is particularly the case with such federal funding as that of education, which funding is supplemental rather than basic, and is designed to meet special needs and provide special help where it is needed. Such help presently is needed by private elementary and secondary education on the one hand, and by tuition-paying parents on all levels on the other hand.[40b]

3. It is sometimes argued that tuition tax credits would *benefit the more*

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[38] This objection was advanced by representatives of the AFL-CIO and the National Coalition for Public Education Association in the 1981 Senate Subcommittee Hearings. See *Hearings*, II, 109-10, 161, and 253-54.

[39] See *Digest of Education Statistics 1981*, pp. 7-8 and 21-22; *Projection of Education Statistics to 1986-87*, pp. 14-15, and 90-91. Various estimates of the federal per student subsidization of public school students were given at the *Hearings*, ranging from $160 to about $200, but the aforementioned *Digest* and *Projection* figures show it to be about $250.

[40a] *Walz v. Tax Commissioner*, 397 U.S. 664 (1970), at 674-75.

[40b] A further point is that the tax loss or "cost" to the federal government from allowing tuition tax credits is about equal to the tax loss or "cost" of tax deductions for the state and local taxes that support pupils in public schools, so that the federal cost of the latter is still greater.

affluent as opposed to the less affluent.[41] But this argument is both *unfounded* and inapplicable. Most of the patrons of nonpublic schools are ordinary citizens, while many are less well off than most patrons of nonpublic schools. According to the U.S. Bureau of the Census, 62.7% of the families with children in private schools in 1978-79 had (family) incomes of less than $25,000; 45.6% had incomes of less than $20,000; 27% had incomes of less than $15,000; and 11.2% had incomes of under $10,000. In inner cities, where private, including church-related schools, do a superior job,[42] 72% of the families earned less than $15,000 a year.

Not only is the allegation unfounded--neither does it apply. Not every social program or piece of legislation is directed primarily at aiding the very poor. This is tax credit legislation, and presumes that the person claiming the credit has made expenditures which fulfill legislative mandates and/or benefit the public. It is primarily designed to help parents who pay for the educational expenses of their children in order to meet the latter's special needs and give them the fullest possible education and preparation for life. Finally, if refundability is included, so that families owing insufficient income tax still receive the full "credit" by means of a partial or full refund, the tuition tax credit legislation will also help the very poor, as well as ordinary citizens.[43]

4. Another manifestly unfair argument of opponents is that tuition tax credits would *promote segregation*.[44] Actually the majority of private schools are church-related, and churches have led the way both in teaching and practicing racial equality, including such in their schools. This is particularly true of the international Catholic Church which has the largest number of elementary and secondary schools, wherein members of minority races, including blacks were welcomed before they were accepted in public schools and colleges attended by whites. Thus the Catholic schools of the Archdiocese of New Orleans, Louisiana, and St. Louis, Missouri, were integrated well before

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[41] This objection was advanced by the League of Woman Voters in the United States, the National Education Association, the AFL-CIO, and the National Coalition for Public Education Association, in the Senate Subcommittee Hearings, 1981. See *Hearings*, I, 107, 170-75; and II, 106-108, 109, and 253.

[42] Examples of superior inner city private schools include St. Brigid's and St. Bernard's in New York City, the St. Thomas Community School in Harlem, and St. Leo's in Milwaukee. See Virgin C. Blem, "Why Inner-City Families Send Their Children to Private Schools" in *Private Schools and Public Policy*, ed. Edward M. Gaffney (Notre Dame, Indiana: Notre Dame University, 1981), pp. 17-24, and Thomas Vitullo-Martin, *Catholic Inner City Schools* (Washington, D.C.: United States Catholic Conference, 1979). Cp. Testimony of Dr. Gail B. West in *Hearings*, II, p. 249. Also see "Miracle in the Inner City" film on this subject, available from the Catholic League . . . ,1100 West Wells St., Milwaukee, WI 53233). Also available from the Catholic League on this subject is the 60-page study of James G. Cibulke, "Public Policy Options for Inner-City Private Schools" (1981).

[43] For the above statistics on income levels of families with children in nonpublic schools see *School Enrollment--Social and Economic Characteristics of Students, Oct., 1978, Population Characteristics*, U.S. Bureau of the Census, Oct. 1979 (Washington, D.C., U.S. Government Printing Office, 1979), referred to by Robert L. Smith, "Testimony," in *Hearings, Senate, 1980*, Part 1 of 2, p. 97.

[44] This objection was offered by the League of Women Voters of the United States and the AFL-CIO in the Senate Subcommittee Hearings, 1981. See *Hearings*, I, 106-107, 173-74, and II, 109, 122-25 and 169.

the public schools in their areas.[45]

Church-related schools, especially Catholic schools, are particularly strong in large cities, where, as we know, both the poor and minorities tend to be concentrated. In 1970, when pertinent statistics were available, 20.45% of all the students in ten (10) of the largest cities in this country were in Catholic schools, with figures as high as 34.3% for Philadelphia and 25.2% for New York.[46] About half of the students in such schools were typically minority students, black or colored. In 1975-1976, 46% of the students in Catholic schools in ten (10) metropolitan areas were minority students (26% black, 17½% Hispanic, 2½% other), and this although membership in the Catholic Church is only about 2% black.[47] Blacks often prefer church-related schools because of their better discipline, more effective instruction, and greater attention to basics, notably the "four R's" of readin', 'ritin', 'rithmetic, and religion. In San Francisco in 1978-1979, the enrollment in Catholic elementary and secondary schools was 57.7% minority, as compared to 38% in the public schools; while in New York City the enrollment in Catholic elementary schools was 53.2% minority and in Catholic secondary schools 33% minority. In California in general in 1979 minority enrollments in Catholic schools amounted to 44% of total enrollments, whereas in the public schools they were only 33%.[48] According to the Coleman Study, Catholic schools have less internal economic and racial segregation than public schools.[49] According to Dr. Thomas Vitullo-Martin, Director of Research, Metroconomy, New York City, the present federal policy of allowing tax deductions for the costs of public education paid through taxes, but denying any deductions for expenditures for private education, contributes to "white flight" from the cities to the suburbs, and thus promotes ever greater racial segregation. For such families can deduct the costs of first class public education in the suburbs, but not that of private education in the cities.[50]

Actually, tuition tax credit bills, as proposed, including the representative Packwood-Moynihan bill, regularly include prohibitions against allowing tax credits for tuitions paid to schools which practice or advocate racial segregation. The Packwood-Moynihan bill, for example, requires that a student, to be eligible for participation, must attend a school that "does not exclude persons from admission . . . or participation . . . on account of race, color, or national or ethnic origin."[51]

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[45] Concerning racial integration in Catholic schools see Testimony of Professor James S. Coleman, Dr. Thomas Vitullo-Martin, Bishop James P. Lyke, and the New Jersey Right to Educational Choice Committee, in Hearings, II, 77 and 105; 75, 89-93 and 93-95; 56-59; and 320-24. See also James S. Coleman, et al., Public and Private Schools, a Report . . ., as cited, and Thomas Vitullo-Martin, Catholic Inner City Schools . . . (Washington, D.C.: U.S. Catholic Conference, 1979). For Catholic High Schools, see Andrew Greeley, "Catholic High Schools and Minority Students," in Private Schools and the Public Good, ed. E. M. Gaffney, pp. 6-16.

[46] Robert L. Smith, "Testimony," in Hearings, Senate, 1980, p. 98.

[47] See Catholic Almanac, 1981 (Huntington, Indiana: Our Sunday Visitor, 1981), p. 552.

[48] Concerning the above figures about proportions of minority and less affluent students in private and public schools, particularly in cities, see Robert L. Smith, "Testimony," in Hearings, Senate, 1980, Part 1, pp. 97-99; and Thomas Vitullo-Martin, "Testimony," in the same Hearings, Part 2, pp. 89-99 and pp. 530-33.

[49] See James S. Coleman, et al., Public and Private Schools: A Report . . . (Chicago: National Opinion Research Center, 1981), pp. 50, 57.

[50] Thomas Vitullo-Martin, in Hearings, as cited above, Part 2, pp. 527-45.

In practice, allowing tuition tax credits would probably enable additional minority students to attend private and church-related schools of their choice at the same time that it would help existing minority patrons of such schools to continue in their present course. This would further promote voluntary integration, an effective and lasting form of desegregation.[52]

5. Some opponents of tuition tax credits charge that allowing such would *threaten public education*.[53] This is an unfair and false argument against tuition tax credits. Abundantly financed and deeply entrenched public elementary and secondary education, with well over one hundred billion dollars of annual revenues derived from taxes, and over forty-four million students, is in no danger of being hurt or destroyed by allowing modest tuition tax credits. It is private education that is currently endangered by continued inflation and ever rising taxes, not public education. And private education will be further endangered by a failure to provide some form of relief, such as tuition tax credits. While public education will undoubtedly survive and prosper financially whatever happens, its quality will be endangered, not by conceding tuition tax credits, but by failure to do so.

Legislation allowing tuition tax credits would take no money away from public schools. Tuition tax credits would involve no reduction in revenues for public education, which are mainly from state and local sources, since proposed tuition tax credits would be federal. Tuition tax credits would still leave more money available for public education by the savings private schools would continue to effect for taxpayers. They would also make additional money available for public education to the extent that they allowed additional students to attend private schools with further savings for taxpayers.

Tuition tax credits having a maximum value of $500 would amount, at most, to only about one-seventh (1/7)of the estimated cost of public education at the earliest time they would become effective, and this fraction would be annually reduced by inflation.[54] Parents would still be confronted with very high costs if they chose private education instead of public education, and only a small percentage--probably up to 5% at most--would be likely to make this choice. Certainly they would not do it mainly to obtain a tax credit amounting to only a small fraction of their expenditures!

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[51] Senate Bill-550, in *Congressional Record* . . ., vol. 127, no. 29 (Feb. 24, 1981), Senate, p. 4.

[52] Both Professor James S. Coleman and Dr. Thomas Vitullo-Martin assure us that allowing tuition tax credits would promote integration because of the high regard minorities in the cities have for private schools and their educational work. See *Hearings*, II, 56, 60-61, and 101-104; 74-75 and 90-95. Also see Testimony of New Jersey Right to Educational Choice Committee in *Hearings* II, 320-33.

[53] This argument was used by HEW Secretary Califano in support of the Carter administration NEA-backed opposition to tuition tax credits in 1978. It was also urged by the NEA (National Education Association), the League of Women Voters of the United States, the AFL-CIO, and the National Coalition for Public Education, in testimony before the Senate Subcommittee in 1981. See *Hearings*, I, 172; II, 106-108, 156-57; 108-109, 161; and 278-85.

[54] See *Projection of Education Statistics*, as cited, with further projections for inflation.

Entirely free public education would have to be really bad for a parent to be attracted away from it by a small reduction of a large cost! If this should ever happen, public education would soon reform! Which is one of the reasons tuition tax credits would help rather than hurt public education. For public education needs the coexistence and competition and comparison provided by private education. A partial or total demise of private education would actually be a disaster for public education!

Finally, all public education, in the sense of education of the public is not provided by public schools. Private schools are open to the public and educate the public. Private schools continue to provide education for the public to the extent that the public wants or needs them. In this sense they constitute part of that great and important enterprise called "public education." For centuries--until recently--private schools were the only schools. Their survival alongside public schools is necessary for the general welfare of education and the eventual good of all citizens.

6. A final argument advanced by some,[55] is that tuition tax credits would be unconstitutional.[56] The Constitutionality of Tuition Tax Credits is the subject of our Part III.

III. THE CONSTITUTIONALITY OF TUITION TAX CREDITS

Opponents of federal tax credits maintain that such credits would be unconstitutional, at least insofar as they apply to elementary and secondary education.[57] They say that allowing tuition tax credits would have an eventual effect of promoting and assisting church-related education, and would thus violate the non-establishment clause of the First Amendment: "Congress shall make no law respecting an establishment of religion." They also maintain that providing tuition tax credits would tend to bring about an excessive entanglement of church and state and produce political division along religious lines, further violating the purpose of the same amendment. Finally, they say that tuition tax credits have already been declared unconstitutional in the Nyquist (1973) case, a judgment confirmed by Supreme Court affirmation of a federal appeals court decision in the Public Funds v. Byrne (1979) case.

Proponents of tuition tax credits, on the other hand, maintain that the tax credits would be constitutional. They say that federal tuition tax credits, even for elementary and secondary education alone, would not really violate the non-establishment clause, and that such tax credits would not amount to an establishment of religion by Congress, nor produce excessive entanglement of Church and state, nor cause undue political division along religious lines. They maintain that proposed federal tuition tax credits would be constitutional according to guidelines established and maintained by the Supreme Court, and that they would differ substantially from the tax credits and deductions rejected in *Nyquist* and *Byrne*.[58]

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[55] Such as politicians who wish to avoid the issue.

[56] The charge of unconstitutionality was levied against tuition tax credits by the American Civil Liberties Union, the American Jewish Committee, Americans United for the Separation of Church and State, and the National Coalition for Public Education, as well as by the NEA in the 1981 Senate Subcommittee Hearings; see Hearings, I, 103-106, 156-61; 114-18, 119-40, 162-69; II, 165-66 and 285-86.

[57] Concerning Nyquist and Byrne, see below.

PREVIOUS SUPREME COURT DECISIONS CONCERNING PUBLIC AID TO NONPUBLIC EDUCATION

Supreme Court Decisions Concerning Public Aid to Nonpublic Elementary and Secondary Education

Beginning in the 1940's, the U.S. Supreme Court has been confronted with numerous cases involving church-state relations regarding education. These cases have been partly due to the fact that in the *Cantwell* (1940) case the Supreme Court decided that the provisions of the *Bill of Rights*, including the First Amendment to the United States Constitution, were extended to the states by the Fourteenth Amendment. They have also been occasioned by legislation rising from growing public concern for the survival of private education.[59]

From Everson (1947) to Walz (1970)

In the *Everson* case (1947), the first case challenging government subsidization of church-related education, a five to four majority of the Supreme Court approved a New Jersey law providing *state reimbursement of parents of children in nonpublic schools for the costs of the transportation of students to and from school*. The majority opinion written by Justice Black, maintained that the benefit of the law went directly to students and only indirectly to church-related schools, and that the state was merely extending to students in private schools general public welfare benefits available to all students. In his opinion, however, Black proclaimed that the First Amendment was meant to establish "a wall of separation between church and state" and that this wall must remain "high and impregnable."[60]

Black also maintained that the First Amendment forbade government to aid religion even in general and indiscriminately, and he intimated that aid, especially direct aid, to church-related schools, as agencies of churches established to propagate religion, was included in this prohibition. Said Black: "The 'establishment of religion' clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can it pass laws which aid one religion, aid all religions, or prefer one religion over another. . . . No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion."[61] Critics point out that Black's interpretation of the intent and scope of the non-establishment clause of the First Amendment was based on faulty history presented by opponents.[62] Although Black's *dictum* involved new principles, and was contrary to previous interpretations by constitutional authorities,[63] as well as widely criticized, it has been quoted and accepted as a guide in several subsequent cases.

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[58] Concerning *Nyquist* and *Byrne*, see below.

[59] *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

[60] *Everson v. Board of Education*, 330 U.S. 1 (1947) at 16 and 18.

[61] *Everson v. Board of Education*, 330 U.S. 1 (1947) at 15-16.

[62] See Chester J. Antieau, et al., *Freedom from Federal Establishment: Formation and Early History of the First Amendment Religion Clauses* (Milwaukee: Bruce, 1964), hereinafter cited as Antieau; and Walter Berns, *The First Amendment* . . . (New York: Basic Books, 1976), hereinafter cited as Berns.

In the McCollum case (1948) the Supreme Court disallowed diversified religious instruction on public school grounds during school hours with voluntary attendance as amounting to government sponsorship of religion.[64] Shortly thereafter, however, in the Zorach case (1952), the Supreme Court upheld released time for religious instruction off public school grounds during public school hours. In this case, Justice Douglas, who delivered the majority opinion, said: "The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. . . . We are a religious people whose institutions presuppose a Supreme Being. . . . When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions."[65]

In the Schempp case (1963), the Supreme Court ruled that daily reading of the Bible and recitation of the Lord's prayer in public schools was unconstitutional as a violation of the non-establishment clause. In this case the Court established a two-pronged test of constitutionality, saying that "to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion."[66]

In the Allen case (1968) the Supreme Court allowed as constitutional New York State's loan of state-selected and state-approved textbooks to children in nonpublic schools which were mainly church-connected. The Court used the two-pronged test enunciated in Schempp. It said that the primary effect of the textbook loans was to aid parents and students, rather than church schools, and that it was an extension of aid provided to public school students. It noted that "the financial benefit is to parents and children, not to schools." It thus used the "child-benefit" theory, as it had done in Everson.[67]

In the Walz case (1970) the Supreme Court upheld state property tax exemptions for religious institutions, and also alluded favorably to federal income tax exemptions for the latter. Meanwhile the Court introduced but did not elaborate on a third requirement for constitutionality in church-state relations: absence of "excessive government entanglement with religion." The Court said that the tax exemptions were not grants and did not represent government funding, and that churches,as recipients of such exemptions,were members of a broad class of beneficiaries, including educational and charitable organizations. It also noted that tax exemptions did not bring about excessive entanglement, and that they reduced rather than increased the involvement between church and state that would be produced by taxation.[68]

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[63] Such as Thomas M. Cooley, General Principles of Constitutional Law in the United States (Boston, 3d ed., 1891), pp. 224-25; and his Constitutional Limitations (Boston, 6th ed., 1890), pp. 575ff.; as well as Joseph Story, Commentaries on the Constitution of the United States (Boston, 5th ed., 1891), at pp. 631-34.

[64] McCollum v. Board of Education, 333 U.S. 203 (1948).

[65] Zorach v. Clauson, 343 U.S., 306 (1952), at 312, 313 and 314.

[66] Abington School District v. Schempp, 374 U.S. 203 (1963).

[67] Board of Education v. Allen, 392 U.S. 236 (1968), at 243-44.

[68] Walz v. Tax Commission, 397 U.S. 664 (1970).

From *Lemon* (1970) to *Regan* (1980)

So far things seemed to be going fairly well for churches and church-related institutions, but this state of affairs changed abruptly with the *Lemon* and *DiCenso* (1971) cases, joined by the Supreme Court for judgment (and usually simply referred to as *Lemon* (1971)). Using the non-entanglement principle, and elaborating on its ambit, the Supreme Court now voided as unconstitutional Pennsylvania's partial subsidization of the secular part of the instruction provided in church-related schools and New Jersey's partial subsidization of teachers of secular subjects in such schools. The main reason for declaring the statutes involved unconstitutional, according to the Court, was that church schools were designed (had "a mission") to propagate religion, and that application of the statutes in such a way as to avoid government subsidization of religious instruction would bring about "excessive entanglement" between government and religious institutions, due to the "comprehensive, discriminating, and intensive surveillance" that would be required to prevent use of government funds for religious purposes. In *Lemon* the Court now formally expanded the two-pronged test enunciated in *Schempp* to a tripartite test: "First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . . finally, the statute must not foster 'an excessive government entanglement with religion.'" In the course of the case, the Court also explained three ways in which excessive entanglement could occur: a) by excessive involvement of government in the affairs of churches (v.g., by excessive surveillance and regulation); b) by excessive involvement of churches in politics and affairs of government; and c) by fostering political divisiveness based on religion. In the course of its opinion, the Court found that a "potential for impermissible fostering of religion" existed even in the teaching of secular subjects in church-related schools, and that this potential was sufficient to require continuing surveillance.[69]

The tripartite test, clearly enunciated in *Lemon* and repeated in subsequent cases, still remains the basic standard used by the Supreme Court in determining the constitutionality of legislation involving relations between church and state. The test seems simple, but its application is not. In the course of applying the tripartite test in the last decade, the Supreme Court has made various decisions and taken various positions. Some of the latter have been widely criticized, and from some of them the Court has seemed at times to retreat--as in decisions allowing public aid to church-related colleges and in the relaxation of prohibitions in its recent *Wolman* (1977) and *Regan* (1980) decisions. Meanwhile the whole assumption originally made in *Everson*, that the state may not encourage or aid traditional religions on an indiscriminate basis has been questioned.[70]

In the *Nyquist* case (1973) the Supreme Court disallowed state maintenance and repair grants to private schools for health and safety purposes, as well as partial tuition reimbursements for low income parents and corresponding partial tuition tax reductions for other parents of children in such schools. Again the Court relied on the assumption that church-related schools were institutions designed to propagate religion as an essential part of their "mission." Maintenance and repair of their buildings by the state would be equivalent to construction of buildings for religious purposes and would hence be an advancement of religion, according to the Court. In the same way, encouraging parents to send their children to such schools by tuition grants or reimbursements (essentially the same) would eventually contribute to the revenues of such churches. In the absence of strict state surveillance (which would itself invalidate the legislation by excessive entanglement, said the Court), some or all of this increased revenue could be used to advance religion, which would be contrary to the non-establishment clause. The same argument was used against the corresponding tax reductions, which were declared equivalent in nature and effect to the reimbursements for the less affluent, at least in the instant case, because they were exact equivalents of the latter, were unrelated to actual expenditures, and were not reduced by other deductions to which the person might be entitled for contributions to charitable and religious institutions. A new principle was enunciated in Justice Powell's majority opinion in Nyquist: that to be a primary effect the effect need not be "the principal" or the primary effect; it was enough if it was a primary effect: an important and significant or a "direct and immediate" effect. In the Nyquist case the Court refused to consider the proposed aid as a part of general state aid to education or to consider the reimbursements and tax deductions as being primarily aid to parents and children. It also alleged that in the absence of effective surveillance, direct aid in any form [to church schools] is invalid.[71] Potential political divisiveness of such legislation was also mentioned.

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[69] *Lemon v. Kurtzman*, 403 U.S. 602 (1970). For above references see at 612-13, and 619-23. The *Earley v. Di Censo* case from Rhode Island was joined with the *Lemon* case from Pennsylvania by the Supreme Court.

[70] See below.

It is to be noted that Chief Justice Burger and Justices White and Rehnquist dissented and protested against the majority decision in Nyquist insofar as it related to reimbursements and tax reductions, saying that these were merely aids to help persons exercise recognized rights and share in common benefits, and the fact that a majority of these persons chose church-related schools should not be invalidating. They also observed that tax deductions were not grants, a principle established in Walz.[72]

In the Sloan case (1973) the Supreme Court disallowed as unconstitutional a Pennsylvania law providing partial state reimbursements for tuition expenses paid to nonpublic schools. In so doing it used the same reasoning it had used in Nyquist (to which it referred): that because the great majority of the schools attended were church-related, the statute represented impermissible state advancement of religion.[73]

In the Levitt case (1973) the Supreme Court went so far as to declare unconstitutional Pennsylvania's loan of instructional materials and equipment and provision of non-ideological auxiliary services by public school personnel for nonpublic schools and school children. Loaned instructional materials included such things as maps, periodicals, recordings and films, and instructional equipment such things as projectors and laboratory items. Auxiliary services provided in church schools by public school personnel included remedial instruction, guidance counseling, testing, and speech and hearing therapy. The Court maintained that most of the schools involved would be church connected and have a dominant religious mission as well as a pervasively religious curriculum. The aid to the schools would be direct rather than indirect and incidental. Such "massive aid" would substantially benefit the schools and hence advance religion. Private school teachers could inculcate religion while using the equipment and materials; while public school teachers might be influenced to do the same by the religious atmosphere of the schools. A primary effect would accordingly be advancement of religion. Finally, church-state entanglement would result, since the church-related school would have control over the services, and political divisiveness along religious lines would be encouraged.[75]

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[71] Committee for Public Education and Religious Liberty v. Nyquist , 413 U.S. 756. See especially at 779-80, 783-84, 786, and 788-90.

[72] See Nyquist, at 791-94.

[73] Sloan v. Lemon, 413 U.S. 825 (1973).

[74] Levitt v. Committee for Public Education and Religious Liberty, 413 U.S. 472 (1973), especially at 479-81.

With *Meek* it seemed that state aid to church-related elementary and secondary education had come to the end of the line. But subsequent Supreme Court decisions in *Wolman* (1977) and *Regan* (1980) revived hopes of proponents of state aid, as also did persistent studies by constitutional authorities, continued criticism of previous Supreme Court decisions, and renewed proposals of forms of aid such as general tuition or educational tax credits. In *Wolman* (1977) and *Regan* (1980), the Supreme Court, according to some observers, seemed to be moderating the impact of its decisions in *Meek* as well as the strictness of previously enunciated principles, such as no entanglement and no direct payments.[76]

In the *Wolman* case (1977), which came out of Ohio, the Supreme Court appeared to relax its negative attitude and retreat somewhat from its strictures in *Meek* by allowing state provision of various services for nonpublic schools and students, including provision of standardized tests and scoring services for nonpublic schools; on-site speech and hearing diagnostic tests, and medical, dental, and optometric tests for students at such schools; and therapeutic services, remedial education, guidance counseling, and programs for the handicapped for such students at neutral sites. In *Wolman* the Court seemed to be relaxing the non-entanglement principle.[77]

This relaxation was further evidenced and also increased in the *Regan* case (1980) which originated in New York State. Significantly, the legislation involved had been declared unconstitutional by a federal district court on the basis of principles espoused in *Meek*, but had been remanded to the lower court to be reconsidered in light of *Wolman*. The district court had then reversed its decision, and was upheld by the Supreme Court's subsequent decision. This allowed direct state cash reimbursement of nonpublic schools for state-mandated administration and grading of state-prepared tests, as well as for the collection and compilation of information pertaining to the private school's curriculum, students, teachers, and facilities. The law provided for strict auditing procedures to make sure the funds were used only for secular purposes. The *Regan* decision relaxed previous strictures mainly in two ways: a) It relaxed the non-entanglement principle by allowing strict state surveillance as well as by discounting political divisiveness; and b) It allowed direct funding of certain private and church-related school activities which it distinguished as secular and non-religious.

In adjudicating cases regarding public assistance to church-related education on elementary and secondary levels, the Supreme Court has encountered difficulties, aroused criticism, and even produced certain inconsistencies, such as its allowance of state-provided textbooks but not maps, and state-funded transportation to and from school but not for field trips. It has been accused of being excessively negative, of reading unhistorical purposes unintended by its originators into the non-establishment clause and "stretching" the latter, of disregarding the free exercise clause and other provisions and purposes of the Constitution, of favoring secularism over traditional religions, of exaggerating certain potential evils while disregarding others, and of overlooking the need for more government consideration of the problems imposed on voluntary organizations by a great expansion of government funding and services.

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[75] *Meek v. Pittenger*, 421 U.S. 349 (1975), especially at 364-71.

[76] See articles in *Ohio State Law Review*, vol. 38, 783; *Tennessee Law Review*, vol. 48, 127; and *Ohio Northern Law Review*, vol. 7, 975.

[77] *Wolman v. Walter*, 433 U.S. 229 (1977).

Supreme Court Decisions Concerning Public Aid to Nonpublic Higher Education

In the foregoing we have concentrated on Supreme Court decisions relative to state aid to nonpublic elementary and secondary education; it is now necessary to consider such relative to higher education. Here the situation has been entirely different. In the former case the attitude of the Court has been predominantly negative; but in the latter it is overwhelmingly positive. Whereas the Court has disallowed most forms of governmental aid to church-related lower education, it has allowed practically every form of such aid to church-related higher education.

The basic reason given by the Supreme Court for its permissive attitude relative to public aid to church-related higher education is that it does not consider most church-related colleges and universities as religious institutions or integral parts of churches with a dominant mission of propagating religion by means of a curriculum and activities permeated with religion, meanwhile influencing a highly pliant and impressionable student body. Instead, the Court recognizes such colleges and universities as separate institutions, apart from though related to churches, having their own separate existence, with their own boards, and fund-raising activities, teaching mainly secular courses objectively without permeation by religion, teaching religion itself more objectively, and having more mature, less impressionable students. Given those assumptions, there is really no reason for concern about directly advancing religion in any substantial unconstitutional manner by providing government aid to such institutions, which, in the eyes of the Court, are primarily and predominantly secular, and only secondarily religious. Government need only take reasonable precautions to ensure that funds are not diverted for religious activities or purposes.

In the Tilton case (1970) the Supreme Court upheld federal construction grants for church-related colleges and universities with the proviso that the buildings constructed never be used for sectarian purposes. The basic reasons cited were that the colleges and universities were not predominantly religious institutions, or "integral parts of churches," that religion did not permeate their instruction, that they were "characterized by academic freedom," while their students were "less impressionable and susceptible to religious indoctrination." As a result, assisting them in their secular work of instruction would not have a primary effect of advancing religion, nor would it bring about entanglement of the state with religion.[78]

In the Hunt (1973) case the Supreme Court followed the same line of reasoning in approving use of state revenue bonds to fund construction at church-related colleges in Tennessee saying that the Baptist college in the case was not pervasively religious.[79] It did likewise in the Roemer case (1977), wherein it approved direct noncategorical grants to church-related colleges and universities made by the State of Maryland. Again it noted that the church-related institutions of higher learning were not pervasively religious, subscribed to principles of academic freedom, did not require religious affiliation or attendance at church services on the part of their teachers or students, and taught religion courses according to standards of academic disciplines.[80] Consistently with the aforesaid decisions, the Supreme Court in the Blanton case (1977) affirmed the decision of a federal district appeals court upholding state-provided assistance grants for students in private, including church-related colleges and universities.[81]

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[78] Tilton v. Richardson, 403 U.S. 672 (1971), particularly at 680, 682, 685, 686.

[79] Hunt v. McNair, 413 U.S. 734 (1973).

[80] Roemer v. Board of Public Works, 426 U.S. 736 (1977).

[81] Americans United for the Separation of Church and State v. Blanton, 433 F.Supp. 97 (1977), summarily affirmed by the Supreme Court, 98 S.Crt., 39 (1977).

General Considerations: The Tripartite Test

In considering the question of the constitutionality of tuition tax credits, we must address four topics since there are four possible kinds of such tax credits: 1) The Constitutionality of Tuition Tax Credits for Higher Education Alone; 2) The Constitutionality of Tuition Tax Credits for Elementary and Secondary Education Together with Higher Education; 3) The Constitutionality of Educational Tax Credits for Elementary and Secondary Education Expenses That Include Other Educational Expenses Along with Tuition Tax Credits; and finally 4) The Constitutionality of Tuition Tax Credits for Elementary and Secondary Education Alone.

According to existing Supreme Court guidelines, the constitutionality of any form of tuition tax credits depends on how they satisfy the tripartite test developed in Schempp, Walz, and Lemon and applied in all subsequent cases of this sort.[82] This tripartite test, as stated in Lemon (1971) is: "First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . .; finally, the statute must not foster "an excessive government entanglement with religion."[83] In Meek v. Pittenger, the Court, in citing the second prong, used the words "a primary effect" rather than "the principal or primary effect"; whether this is controlling is unclear.[84]

With regard to the first prong of the tripartite test, there should be no difficulty in the case of tuition tax credits, whatever their form and extent. The Supreme Court has regularly accepted the secular purpose of legislation aiding church-related education in previous cases. With regard to the third prong, the absence of excessive entanglement of government with religion--or between state and church--there should also be no substantial question. Tuition tax credits should easily satisfy this requirement. The only direct relationship would be between the taxpayer claiming a credit and the I.R.S., and even that would be minimal. A possible exception would be that the qualifying institution would have to be one not practicing or promoting segregation because of "race, color, or national or ethnic origin"; but this is already required for tax-exemption. Since the first and third prongs of the tripartite test would easily be satisfied by any form of tuition tax credits, the only remaining question would concern the effect of the legislation, and the only actual requirement would be that the tuition tax credit legislation not have a principal or a primary effect of advancing (or inhibiting) religion.

CONSTITUTIONALITY

1. The Constitutionality of Tuition Tax Credits for Higher Education Alone.

We need not delay long over the question of the constitutionality of tuition tax credits for higher education in general alone, or even for private higher education alone, as such would be clearly constitutional. As we have seen, the Supreme Court has accepted the constitutionality of federal construction grants (of secular facilities) and direct, non-categorical state grants for private, including church-related colleges and universities, as well as that of state-provided assistance grants for students attending such, in the Tilton (1971), Roemer (1977), and Blanton (1980) cases.[85] According to these precedents, allowance of tuition tax credits for students attending such institutions and their parents would be constitutional as conferring less substantial and more indirect incidental benefits on these institutions.

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[82] See above.

[83] Lemon v. Kurtzman, as cited, at 601-602.

[84] Meek v. Pittenger, as cited, at 358.

[85] See above.

2. The Constitutionality of Tuition Tax Credits for Elementary and Secondary Education Together with Higher Education.

As proposed in tuition tax credit bills such as the Packwood-Moynihan bill, tuition tax credits would be allowed for higher education and vocational education as well as for elementary and secondary education. As a result the benefited class would mainly consist of students in church-related schools, and would be much broader than in the case of tuition tax credits for elementary and secondary education alone. Accordingly it could not be maintained that the ultimate beneficiaries were mainly schools that were integral parts of a church, schools with a religious mission and a pervasively religious curriculum. Nor could it be alleged that the (or a) primary effect of such legislation was to advance religion. In 1978 it was determined that of some 15 million students who could be benefited by the across-the-board tuition tax credits proposed by Packwood-Moynihan, about half (about 50%) or approximately 7½ million would be in public colleges and universities, about 17% or some 2½ million in private colleges and universities whose mission and instruction was primarily secular, and about 3% or ½ million in secular schools. Only about 30% (less than 1/3)--a minority of the beneficiaries would be in church-related elementary and secondary schools which the Supreme Court has characterized as having a religious mission and a pervasively religious curriculum, and being an integral part of a church.[86] Accordingly the primary effect of the proposed legislation could not be said to be advancement of religion. In addition, the proposed tax credits would be genuine tax deductions (or partial tax-exemptions), distinguishable from grants, and, as such, acceptable means to be used by government in its relationship with religion. Unlike tax credits and deductions in previous legislation considered by the Supreme Court, they would be directly proportionate to and dependent on actual expenditures, and would be entirely independent of and unrelated to any tuition grants or tuition reimbursements.[87]

A favorite argument of opponents of tuition tax credits is that they have already been condemned as unconstitutional by the Supreme Court in the Nyquist, Sloan, and Public Funds v. Byrne cases. It is therefore necessary to examine more closely the decisions and opinions in these cases. In so doing, we will see that, as Professor Antonin Scalia of the Law School of the University of Chicago has testified, "the issue has never been resolved by any holding, or even by any consistent line of dictum from the Supreme Court."[88]

The "Nyquist" Case (1973)

In the Nyquist case (1973), to which we have already alluded, the Supreme Court declared unconstitutional a New York State law which alternatively provided either monetary reimbursements of $50 and $100 for 50% of the elementary and secondary school tuition paid by less affluent parents, or equivalent state income tax credits for more affluent parents. The Court noted that most of the beneficiaries of the legislation were parents of children in church-related schools, and that the majority of the latter were Catholic. According to the Court, "approximately 85%" of New York State's nonpublic elementary and secondary school population attend "church-affiliated" schools. The Court concluded that ". . . the effect of the aid is unmistakedly to provide desired financial support for nonpublic sectarian institutions," and that as a result ". . . the State has taken a step that can only be regarded as one 'advancing' religion." In view of this, the Court declared that the tuition reimbursements were unconstitutional, and suffered the same defect as the grants for maintenance and repair provided by the same law for schools serving low income families, which, according to the Court, "violate the Establishment Clause because their effect, inevitably, is to subsidize and advance the religious mission of sectarian schools."[89]

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[86] Digest of Education Statistics, 1981, as cited above, p. 6.

[87] This is further discussed below.

[88] Antonin Scalia, Testimony on the Constitutionality of Tuition Tax Credits (Washington, D.C.: American Enterprise Institute, 1978), p. 1. Professor Scalia has served in the federal government as Assistant Attorney General, Office of Legal Counsel. He is currently Professor in the Law School of Stanford University.

The Supreme Court declared the tuition reimbursements for students from families with lower incomes unconstitutional because they were "tuition grants" which lacked "an effective means of guaranteeing that the state aid derived from public funds will be used exclusively for secular, neutral, and non-ideological purposes. . . ." Accordingly they could be used in whole or part to propagate religion. If surveillance had been attempted, the Court would have ruled the grants unconstitutional because of resultant entanglement.[90]

With regard to the tax reductions or credits for tuitions provided for those with larger incomes, the Supreme Court equated them to the tuition reimbursement grants because of the structure of the law and its context. It noted that the given tax credits were exactly equivalent to the monetary reimbursements provided for parents with lesser incomes; and that they were for "arbitrary" amounts "unrelated to the amount of money actually expended by any parent on tuition" and "apparently designed to yield a predetermined amount of tax forgiveness." The Court characterized such as a "hybrid benefit" (rather than a true tax credit), "calculated on the basis of a formula" which was "apparently the product of a legislative attempt to assure that each family would receive a carefully estimated tax benefit . . . comparable to and compatible with the tuition grant for lower income families." The Court concluded: "In practical terms there would appear to be little difference between the tax benefit allowed here and the tuition grant. . . . The qualifying parent under either program receives the same form of encouragement and reward. . . ."[91] In short, the Court, *in the given context*, characterized the tax credits challenged in *Nyquist* as grants or subsidies encouraging parents to send their children to predominantly religious schools. The Court went on further to distinguish the tax reductions in *Nyquist* from those in *Walz* by the facts that the *Nyquist* reductions were positive acts of legislative favor rather than negative ones of neutrality, and that they tended to increase rather than decrease church-state involvement, and that the church-related schools ultimately assisted were not part of a broad class of beneficiaries as were the churches in *Walz*.[92]

But the case would be different with true tax credits for all levels of education that were distinct from and independent of grants. In contrast to the tax reductions in *Nyquist*, genuine across-the-board tuition tax credits, such as those proposed in the current Packwood-Moynihan bill, would not be part of a program of fixed money grants on the one hand and equal tax reductions on the other. Although they would have a ceiling, the proposed general tuition tax credits would be a percentage of the amount of tuition paid up to a determined amount. They would not be "hybrid," nor would they be disguised grants. Also the benefited students in the church-related schools [that were indirectly benefited] would be less than a third of those benefited, while two-thirds of the broad class of beneficiaries" would be students in wholly or primarily secular institutions. The proposed tuition tax credits for church-related schools along with other educational institutions would hence be directly comparable to the tax exemptions for churches in *Walz*. They would be manifestations of governmental neutrality rather than favor, looked at from the point of view of overall governmental financing of education as it relates to public as opposed to private education and to the "religion" of secularism as opposed to traditional religions.

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[89] *Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756 (1973) at 768, 783, 788-90.

[90] *Nyquist* at 780-85.

[91] See *Nyquist*, as cited, at 789-91.

[92] *Nyquist* at 791-94.

Intimation of Constitutionality (in Nyquist)

In *Nyquist* the Supreme Court apparently intimated that genuine, across-the-board tuition tax credits benefiting a broad class of recipients, the majority of whom were not patrons of church-related schools, could be constitutional. The Court indirectly implied this when it carefully distinguished the narrow class of beneficiaries, limited mainly to patrons of church-related schools, in *Nyquist*, from: a) the broad class of recipients of bus rides in *Everson*, and b) the similarly broad class of recipients of textbooks in *Allen*. In each of these cases the beneficiaries were students in public schools as well as those in private schools. Of *Everson* and *Allen* the Supreme Court said "In both cases the class of beneficiaries included *all* school children, those in public as well as those in private schools." So as to stress this point, the Court italicized the word "*all*."[93]

The Supreme Court even more directly suggested the constitutionality of broad benefits when it said "Without intimating whether this factor alone might have controlling significance in another context in some future case, it should be apparent that in terms of the political divisiveness of any legislative measure, the narrowness of the benefited class would be an important factor."[94]

Nyquist remains the only case in which the Supreme Court has directly and deliberately addressed itself to the question of tuition tax credits. But these were "hybrid" credits in a "hybrid" case complicated by corresponding grants and differing in other significant ways from the tuition tax credits we are discussing. The precedents and guidelines established in *Nyquist* have not been subsequently substantially changed, although they have been criticized. While opponents sometimes also cite the *Sloan* and *Byrne* cases, the former did not concern tax reductions at all, and the latter consisted simply in Supreme Court summary affirmation of a lower court decision based on *Nyquist*, wherein the essential elements in the case corresponded to those in *Nyquist*.

The "Sloan" Case (1973)

The allegation of some opponents that the *Sloan* case (1973)[95] also demonstrates the unconstitutionality of true tuition tax credits is mistaken. Although decided by the Supreme Court at the same time as *Nyquist*, the *Sloan* case did not concern tuition tax credits, nor did the Supreme Court decision and opinion therein even mention them. *Sloan* was joined to *Nyquist* as a companion case simply because the tuition reimbursement grants for the less affluent in *Nyquist* corresponded to the tuition reimbursements provided by the Pennsylvania law challenged in *Sloan*. But other provisions in the New York State law challenged in *Nyquist*, including both the tax reductions and the maintenance and repaid grants, were not included in the Pennsylvania law, nor were they adjudged in *Sloan*.

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[93] *Nyquist* at 782, footnote.

[94] *Nyquist* at 794.

[95] *Sloan v. Lemon*, 413 U.S. 825 (1973).

The *Sloan* case concerned a Pennsylvania law known as "The Parent Reimbursement Act for Nonpublic Education." This law provided for tuition reimbursements of $75 and $150 for tuitions paid for students in elementary and secondary schools. Pennsylvania's direct tuition reimbursements were disallowed in *Sloan* on the same bases as were the direct tuition reimbursements or grants in *Nyquist*. In disallowing the benefits in *Sloan*, the Supreme Court specifically described them as "reimbursements" and "grants," thus clearly distinguishing them from tax credits. As in *Nyquist*, the Court also alluded to the fact that the great majority of the schools attended by the benefited students were church-related, saying: ". . . more than 90% of the children attending nonpublic schools in the Commonwealth of Pennsylvania are enrolled in schools that are controlled by religious organizations, or have the purpose of propagating and promoting religious faith."[96]

The "Public Funds . . . v. Byrne" Case (1979)

In the *Public Funds for Public Schools . . . v. Byrne* (1979) case the Supreme Court simply affirmed a decision by two lower federal courts that a New Jersey law providing state income tax deductions for persons with dependents in private elementary and secondary schools was unconstitutional. The voided New Jersey law had allowed taxpayers to deduct $1,000 from their gross income for each dependent in a private school in calculating their net income for state income tax purposes. The New Jersey tax deductions were declared unconstitutional by a federal district court, whose decision was upheld by a federal appeals court, on the basis of the U.S. Supreme Court decision in the *Nyquist* case. In accordance with the Supreme Court's decision in *Nyquist*, the lower courts held that the deductions had a primary effect of advancing religious education and hence constituted a form of governmental "establishment of religion," contrary to the First Amendment as extended to the states by the Fourteenth Amendment. The federal courts maintained that the New Jersey benefits were not "genuine tax deductions" since they were unrelated to the amount of money actually expended for tuition and were even available for those paying no tuition at all. The benefits were adjudged "incentives" or "rewards" given to parents for sending their children to private, mainly church-related schools, since they did not include taxpayers with dependents in public educational institutions and they did not constitute part of "a broad system of educational exemptions."[97]

The U.S. district judge who initially heard the New Jersey case decided that the benefits involved corresponded to the tax benefits rejected by the Supreme Court in *Nyquist*, and the legislation was accordingly unconstitutional. A federal appeals court upheld his reasoning and decision. The U.S. Supreme Court, on appeal, summarily affirmed the decision and refused to hear the case by a six to three vote.[98]

The Appeals Court said: "Under *Nyquist* we are compelled to find unconstitutional this exemption. . . ." In conformity with *Nyquist*, the Appeals Court held that "the exemption has a primary effect of advancing religion and therefore violates the First Amendment."[99] As in *Nyquist*, this conclusion was based on the fact that the beneficiaries were mainly citizens with dependents in church-related schools. Like the Supreme Court, the appeals court observed: "The breadth of the class benefited by a law is an important criterion by which to judge constitutionality." The court noted that the benefits challenged in the New Jersey case were not general since they were limited mainly to persons with dependents in religiously-oriented private schools, and did not include persons with dependents in public schools.[100]

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[96] *Sloan v. Lemon*, 413 U.S. 825 (1973) at 830-33.

[97] *Public Funds for Public Schools . . . v. Byrne*, 444 Fed. Sup. 1228 (1978), hereinafter cited as *Public Funds (1)*, at 1231; and *Public Funds for Public Schools . . . v. Byrne*, 590 Fed. Rep. 2d 514 (1979), hereinafter cited as *Public Funds (2)*, at 518-20. Aff'd mem., 442 U.S. 907 (1979).

[98] *Public Funds (1)*, 1230-31; *Public Funds (2)*, 517-20; *U.S. Law Week* 3769 (May 29, 1979).

[99] *Public Funds (2)*, 518, 520.

Distinguishing the New Jersey tax benefits from those approved in *Walz*, the district judge and the appeals court both noted that New Jersey benefits were not "genuine tax deductions." The district judge said: "New Jersey's deduction is not a true tax deduction. The amount that may be subtracted from gross income need not bear any relation to the tuition paid." Echoing this, the appeals court said: "The law questioned in this case does not create a genuine tax deduction." Stressing the "hybrid" benefit voided in *Nyquist*, the appeals court quoted the latter verbatim in saying: "The taxpayer in each instance, 'is allowed to reduce by an arbitrary amount the sum he would otherwise be obliged to pay the State.'"[101]

As an additional feature contrasting with *Walz*, the Appeals Court in *Byrne*, just as the Supreme Court in *Nyquist*, noted that the benefits provided by the New Jersey law were not part of a general program of tax benefits. Said the court: "New Jersey's exemption for taxpayers who support dependents in nonpublic elementary or secondary schools is not a neutral approach to religion; it does not encompass a comprehensive system of tax exemptions."[102]

Simple tuition tax credits for all levels of education, such as those proposed in the Packwood-Moynihan bill, would not have the disqualifying features of the tax reductions voided in *Nyquist* and *Byrne*. They would be genuine tax deductions, dependent on and proportionate to actual payments of tuition. And they would be part of "a comprehensive system of educational exemptions." They would thus correspond more closely to the tax exemptions for churches approved in *Walz* than to the "hybrid" tax reductions condemned in *Nyquist*.[103]

3. *The Constitutionality of General Educational Tax Credits for Expenses of Elementary and Secondary Education (That Include Other Expenses Along with Tuition)*

What would be the constitutionality of educational tax credits (note use of the term "educational" rather than "tuition") for expenses of elementary and secondary education that did not include higher education, but applied to other expenses besides tuition and thus benefited public as well as private elementary and secondary school patrons? Such educational tax credits or deductions, that benefit the parents of students in public schools as well as those of students in private schools, already exist in the case of income taxes in the states of Minnesota and Louisiana. Allowable educational expenses include special fees, and the cost of special instruments and equipment, special clothing, transportation, and items such as paper, pencils, pens, and books, for which parents must pay, as well as tuitions (when applicable). Further examples of the above include musical instruments, uniforms, and summer school tuition; and could also include special tutoring for the backward. Beneficiaries obviously would constitute "a broad class."

The Supreme Court, as has been seen, has established a tripartite test to determine the constitutionality or unconstitutionality of such legislation. If we can judge from previous cases, the Supreme Court would be easily satisfied with the secular purpose of such tuition tax credit legislation that aided education in church-related schools, as it has always been satisfied with like legislation in the past. Also there is little doubt that such legislation would pass the entanglement test, since any relationship between church-related schools and government produced would only be secondary and indirect, and even the relationship between government and the parents involved would be minimal--an ordinary matter of spot-checking personal income tax returns, that is already a regular procedure.

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[100] *Public Funds (2)*, 518.

[101] *Public Funds (2)*, 518.

[102] *Public Funds (1)*, 1231, n. 9; *Public Funds (2)*, 518. Cp. 413 U.S. 791, 93 S.Ct. 2974.

[103] Cp. *Walz v. Tax Commissioner*, 397 U.S. 664 (1970) at 672-75; *Nyquist* at 792-94; *Public Funds (2)* at 518.

The only question remaining, then, if we follow present Supreme Court guidelines, is whether such educational tax credits would have a primary effect of advancing religion. But such educational tax credits would have a broad class of beneficiaries, only about one-tenth (1/10) of whom would be parents of children in church-related schools.[104] The vast majority of the beneficiaries (about 90%) would accrodingly be parents of students in public and other secular schools, rather than parents of students in church-related schools, as was the case in Nyquist. The "primary" or "direct and immediate" effect[105] of such educational tax credit legislation could not be said to be "to advance religion," and it would accordingly be constitutional. In previous cases such as Nyquist, the judgment that certain legislation had a primary effect of advancing religion derived from the fact that the great majority of the beneficiaries were church-related schools or parents of students in church-related schools.[106] This would not be true in the present case.

The sort of educational tax credit legislation here discussed would be basically similar to the tuition tax credit legislation for higher as well as elementary and secondary education discussed in the previous section (#2). It would also be constitutional for like reasons.[107] The fact that there would be some difference in the amount of credit or deduction received would be a factor of actual expenditures and would not be disqualifying, since it exists regularly in the case of tax deductions and credits. Besides, this inequality would be reduced if the Court would consider the value of tax deductions for tuitions in public schools paid for by deductible taxes, and the tables would be completely turned if the Court took into account the whole picture of public financing of education.

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[104] There are about 44 million students in public elementary and secondary schools, and only about 4½ million in church-related schools, with the balance in secular private schools. See above.

[105] See Nyquist at 773-74, 783-84; Meek at 358, 366; Lemon at 612-13.

[106] This judgment incidentally involved some juggling of the meaning of the word "primary," and especially of the phrase "the principal or primary effect" used in Lemon, as has been seen: Lemon at 612.

[107] Minnesota's educational tax deductions have twice been declared constitutional by federal district courts: a) by a 3-judge federal district court in 1978: Minnesota Civil Liberties Union v. Roemer, 452 F. Supp. 1316 (D. Minn., 1978); and b) by a federal district judge in 1981: Mueller v. Allen, 514 F. Supp. 998 (1981). The latter case was heard on appeal by the 8th Federal District Appeals Court in December of 1981.

Recent Cases Concerning Educational Tax Deductions: Norberg and Mueller

Two cases concerning educational tax deductions available for parents of both private and public school children have been recently decided by federal courts in opposite ways. Both cases concerned allowance of tax deductions for elementary and secondary school expenses from gross income in calculating state income taxes. In both cases the deductible expenses included tuition, and the cost of textbooks, instructional materials and/or equipment, and transportation. In both cases the allowable deduction was for up to $500 for grades K through 6, and up to $700 for grades 7 through 12. The first case, *Rhode Island Federation of Teachers v. Norberg*, came out of Rhode Island; the second, *Mueller v. Allen*, out of Minnesota. In each case the decision of a federal district court was upheld by a federal appeals court.

In the *Norberg* case (1979 and 1980)[107a] both the federal district court in Rhode Island and the First District Federal Appeals Court in Boston struck down Rhode Island's educational tax deductions as unconstitutional, deciding that the statute violated the non-establishment clause of the First Amendment. In doing so, the courts applied the tripartite test of constitutionality established by the U. S. Supreme Court in *Lemon v. Kurtzman*.[107b]

While accepting the secular purpose of the law, the *Norberg* courts maintained that the tuition deductions would have a primary effect of advancing religion, and that the deductions for textbooks and instructional materials and supplies would necessitate excessive involvement between church and state. The *Norberg* courts accepted the claim of plaintiffs that the tuition deductions should be considered separately and that the deductions for textbooks, materials, and supplies were *de minimis* or of minor consequence. The *Norberg* courts maintained that the tuition deductions were "a charge upon the state," equivalent to grants, and that they would have a "primary effect" of advancing religion, since the great majority (93-94%) of those eligible to receive them would be persons supporting children in church-affiliated schools. The latter would benefit from this legislation inasmuch as patronage of them would be encouraged. The *Norberg* courts said that the Rhode Island deductions were similar to the tax credits rejected by the U. S. Supreme Court in *Nyquist* since they did not have a broad class of beneficiaries as well as represented a charge upon the state. The *Norberg* courts said that the tuition deductions had a narrow class of beneficiaries, mainly composed of parents with children in sectarian schools; and the inclusion of parents of children in public schools was characterized as "mere window dressing." They said that the Rhode Island tax deductions for tuition differed from the tax exemptions for churches approved by the Supreme Court in *Walz* inasmuch as they were not simple abstentions from taxation, and did not minimize relations between church and state, and did not have a broad class of beneficiaries with a large secular component. The *Norberg* courts further declared that the tax deductions for textbooks, materials, and supplies would cause excessive entanglement between church and state, inasmuch as they would require extensive surveillance by the state to ensure that the textbooks, materials, and supplies did not contain religious instruction and were not used to inculcate religion.

[107a] *Rhode Island Federation of Teachers AFL-CIO v. Norberg*, 479 Fed. Sup. 1364 (1979); aff'd. 630 2nd 855 (1980).

[107b] 403 U. S. 602 (1970) at 612-13.

The *Norberg* courts accepted without distinction or qualification several of the most severe restrictions of previous Supreme Court decisions and some questionable claims of plaintiffs. They did not adequately explain why the tax deductions in question were charges or subsidies, rather than mere instances of tax abstention, nor why other deductions must be separately considered from the tuition deductions in determining breadth of the benefited class. Statistics included only eligibility for tuition deductions and not actual deductions for tuition, nor did they include eligibility for and use of other allowable deductions. No allowance was made for the difference between monetary grants and abstentions from taxation, or for the interposition of freely choosing parents between government and schools. Finally, no consideration was given to the breadth of beneficiaries in the overall system of governmental financing of education.

In the subsequent *Mueller*[107c] case (1981 and 1982) the outcome was exactly the opposite. Here both the federal district court in Minnesota and the Eighth District Court of Appeals in St. Louis upheld the constitutionality of Minnesota's educational deductions, earlier upheld by a three-judge federal district court in the *Roemer*[107d] case (1978). In the *Roemer* case the tax deductions had been upheld as benefiting parents of both public and private school students and as being similar to deductions allowed for contributions to charitable and religious causes. In *Mueller* the issue was retried as a representative taxpayers' suit with a factual record unavailable in the earlier case. Again, the constitutionality of the statute was upheld. The *Mueller* courts applied the tripartite test, even as had the *Norberg* courts, but arrived at a different decision. The *Mueller* courts held that the provisions of the statute satisfied all three requirements of the tripartite test. Regarding primary effect, the *Mueller* courts decided that the advancement of religion was a "remote and incidental" outcome of the Minnesota tax deductions. The encouragement of attendance at church-affiliated schools was a secondary and indirect rather than primary and direct effect of the parental tax deductions. But such an indirect aid to religion is constitutional according to several Supreme Court cases, including *Everson*, *Wolman*, *Hunt*, *Tilton*, *Walz*, and *Allen*. The *Mueller* courts also held that the deductions allowed were "true tax deductions" related to and dependent on actual expenses, and not grants or subsidies. In fact, the tax deductions allowed corresponded to the tax exemptions allowed for churches by the Supreme Court in *Walz*, rather than the hybrid tax benefits rejected by the court in *Nyquist*. The tax deductions also corresponded to the tax benefits allowed in *Walz*, since they had a broad class of beneficiaries, and did not overwhelmingly flow to patrons of church-related schools. This class was broad both *de jure* (according to the law) and *de facto* (in fact), both of which aspects should be considered, according to the courts. As it reads on its face, the law provides benefits for parents of public as well as private school students, and the former are more numerous than the latter. Nor were there any statistics presented to prove that an overwhelming proportion of the beneficiaries were parents of children in church-affiliated schools or that the latter received an overwhelming share of the benefits. The *Mueller* courts did not accept the claims that the deductions for tuition should be separated and considered apart from those for materials, supplies, and transportation, and that the latter were *de minimis*. The *Mueller* Appeals Court further noted that it was doubtful that a statistical analysis was fully determinative for a facially neutral law, for the data obtained might vary from time to time and place to place, and thus produce constitutional confusion and contradiction. The *Mueller* courts noted that the educational tax deductions were similar to the tax exemptions for churches approved by the Supreme Court in *Walz* and different from the tax credits disapproved by the Court in *Nyquist* in that they were genuine tax deductions related to actual expenditures and had a large and diversified class of beneficiaries, the majority of whom were not parents of children in church-affiliated schools. As to the claim that the tax deductions for expenses of providing textbooks and instructional materials and equipment would excessively entangle church and state because they would require extensive state surveillance to ensure that they did not provide or assist religious instruction, the *Mueller* courts said this was not the case. For the only direct relationship produced would be between individual taxpayers and the state revenue service, and the relationship between institutions and the state would continue to be indirect and remote.

[107c] *Mueller v. Allen*, 514 Fed. Sup. 998 (1981); affd. by Eighth District Court of Appeals, April 30, 1982; Docket #81-1569, slip opinion.

[107d] *Minnesota Civil Liberties Union v. Roemer*, 452 Fed. Sup. 1316 (1978).

In looking for the direct and primary effect of Minnesota's educational tax deductions, the *Mueller* courts found that it was general assistance to parents in meeting the expenses of educating their children in public as well as in private schools. The resultant aid to sectarian education was an indirect and secondary effect of the legislation. As a result, it was constitutionally permissible. There would be no direct relationship introduced between the state and church-related schools, and hence no excessive entanglement of church and state. The spirit of the *Mueller* decisions is reflected in the Appellate Court's quotation from the concurring opinion of Justice Powell (author of the *Nyquist* opinion) in *Wolman*, wherein he observed that it is not necessary to hold that every statute resulting in substantial aid to church-related education is thereby unconstitutional.

The United States Supreme Court will eventually decide the issue.

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4. The Constitutionality of Tuition Tax Credits for Elementary and Secondary Education Tuition Only.

Tuition tax credits for elementary and secondary education *alone* would be constitutional both a) according to existing Supreme Court guidelines and b) according to the Constitution itself. Because of its greater complexity this subject is discussed in a separate section.[107e]

[107e] This sort of tuition tax credit legislation has been proposed by President Reagan.

IV. THE CONSTITUTIONALITY OF TUITION TAX CREDITS FOR ELEMENTARY AND SECONDARY EDUCATION ALONE

We now address the question of the constitutionality of tuition tax credits that would be limited to elementary and secondary education alone,[107b] and would thus mainly benefit patrons of church-related education. This question may be divided into two parts: 1. Would such limited tuition tax credits be constitutional according to existing guidelines established by the Supreme Court to date? and 2. Would such tuition tax credits be in harmony or conflict with the Constitution itself?

1. The Constitutionality of Tuition Tax Credits for Elementary and Secondary Education Alone According to Existing Supreme Court Guidelines.

While the constitutionality of tuition tax credits with a more limited class of beneficiaries mainly consisting of patrons of church-related education would run a greater risk of encountering difficulty with the Supreme Court, such tuition tax credits can be reconciled with existing Supreme Court guidelines. For they would be true tax deductions, and would be a negative rather than a positive form of government action towards religion, similar to that accepted as constitutional by the Supreme Court in Walz (1970). Tax deductions and exemptions stand in a special category according to the Supreme Court decision and opinion in Walz, and may be used by government in its relations with religious institutions, partly as a way of increasing their freedom as well as a way of decreasing government involvement with religion. Since the Supreme Court has classified church-related schools as religious institutions or "integral parts of churches" "with a religious mission," they should be fit recipients for tax exemptions and deductions. Consistently, those who support church-related schools by contributions or payments for their services should be allowed tax deductions even as are members of churches who support the latter by their contributions or payments.

"True Tax Deductions"--as in Walz

Tax exemptions for churches were allowed by the Supreme Court in the Walz case (1970) as a negative form of government action different from positive grants, and as actually increasing government neutrality towards religion and separation of church and state.[108] In its opinion the Court also alluded, with approval, to federal income tax exemptions for churches.[109] The same principles and arguments accepted in the Walz case obviously apply to income tax deductions for contributions or voluntary payments made to churches by their members.

The principle that tax exemptions and deductions and consequently tax credits are not grants was established in Walz. If they were grants, the Supreme Court would have disallowed them in Walz, as the Court was careful to observe, saying "Obviously a direct money subsidy would be a relationship pregnant with involvement."[110] The Court went on to say: "The grant of a tax exemption is not sponsorship since the government does not transfer part of its revenue to churches but simply abstains from demanding that the church support the state. . . . There is no genuine nexus between tax exemption and establishment of religion".[111] This same principle was stated and elaborated on by Justice Brennan in his concurring opinion: "Tax exemptions and general subsidies . . . are qualitatively different. Though both provide economic assistance, they do so in fundamentally different ways. A subsidy involves the direct transfer of public monies to the subsidized enterprise and uses resources extracted from taxpayers as a whole. An exemption, on the other hand, involves no such transfer. . . . Tax exemptions, accordingly, constitute mere passive state involvement with religion and not the affirmative involvement characteristic of outright governmental subsidy."[112] It is clear that the Supreme Court does not regard whole or partial tax exemptions, deductions, or credits as governmental grants, subsidies or reimbursements.

[107b] Such a law has been proposed by the Reagan administration.

[108] Walz v. Tax Commission, 397 U.S. 664 (1970).

[109] Walz at 676.

[110] Walz at 675.

[111] Walz at 675.

The Supreme Court went on to say in *Walz* that for government to tax churches would involve the same hazards as for government to support churches: "The hazards of churches supporting government [through taxes] are hardly less in their potential than the hazards of government supporting churches. . . ."[113] The Court maintained that the exemption of churches from taxation actually decreased the danger of church-state entanglement and promoted church-state separation, even though it did mean a small degree of involvement. Said the Court: "Granting tax exemptions to churches necessarily operates to afford an indirect economic benefit and also gives rise to some, but yet a lesser, involvement than taxing them."[114]

As the Supreme Court is allowing the constitutionality of tax deductions for contributions and voluntary payments to churches for their services on the basis of the foregoing principles, and as it maintains that church-related schools are "integral parts of churches," would it not also be consistent to allow tax deductions for voluntary payments to church-related schools for their services? But this the IRS currently denies for contributions or voluntary payments to schools by parents with children in the schools.

"A Broad Class"--as in *Walz*

Another point made by the Supreme Court in the *Walz* case was that in being allowed tax exemptions, churches were not singled out for special favor but were part of a "broad class" of beneficiaries, including charitable and scientific organizations, hospitals, libraries, playgrounds, charitable organizations, and the like.[115] Church-related schools are recognized as part of this broad group, but tax deductions are disallowed for contributions made to church-related schools when made by those whose children utilize their facilities, in contrast to the case with churches.[116]

Strangely enough, church-related schools are accepted as part of this broad class of beneficiaries, capable of receiving the benefit of *direct* tax deductions and exemptions for themselves and their activities, but not of receiving the benefit of *indirect* tax deductions whose direct beneficiaries are parents. The *direct* benefit is allowed, but the *indirect* benefit is denied on the claim that this would benefit religion, something already being done more efficaciously by the direct benefit.

With the same inconsistency, tax deductions are allowed for contributions and voluntary payments made to churches by members who participate in their benefits and services, payments which go directly and entirely into church coffers for the advancement of religion; but it is claimed that tax deductions should not be allowed for similar voluntary payments to church-related schools whose instruction is mainly secular. This is said to be due to the fear that some portion of such payments by parents might go for the advancement of religion. It would appear that 100% advancement of religion by tax forgiveness is O.K., but 10 to 15% or some other percentage is not.

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[112] *Walz* at 690-91.

[113] *Walz* at 675.

[114] *Walz* at 675.

[115] *Walz* at 672-73.

[116] The IRS denies tax deductibility for contributions or voluntary payments made to church-related schools by parents whose children attend them: up to the estimated value of the education received. This denial is currently based on the claim that such parents are purchasing a secular benefit.

Obviously, if church-related schools were considered as parts of a broad class of beneficiaries, including churches, hospitals, libraries, scientific and charitable organizations, etc., which are benefited by various forms of direct and indirect tax exemptions and deductions, they would be participating in this particular form of tax forgiveness, from which they would indirectly benefit, as part of a broad class of tax-forgiveness beneficiaries.

Looked at from the point of view of general public (governmental) policy relative to the financing of education at public expense, parents who are allowed tuition tax credits to give them some help in providing required education for their children would also be part of a broad class sharing in the benefits of public largesse relative to elementary and secondary education. Looked at upon the broad vista of public benefits for education, such parents would be receiving a tax forgiveness of up to $500 for a fraction of tuition paid, while their counterparts using public schools for the education of their children would be receiving an ever-increasing total subsidy presently valued at $3,000. This point was made by Chief Justice Burger, joined by Justices White and Rehnquist, in their dissents in *Nyquist*, when they said: "In the instant cases, as in *Everson* and *Allen*, the states have merely attempted to equalize the costs incurred by parents in obtaining an education for their children. . . . It is no more than simple equity to grant partial relief to parents who support the public schools they do not use."[117] An extensive "Note" in the *Harvard Law Review*, entitled "Government Neutrality and Separation of Church and State: Tuition Tax Credits" makes essentially the same point when it says: "By defining neutrality narrowly--within the context of the program challenged, rather than the overall system--the Court perceived no conflict between neutrality and separation."[118]

Fiscal Consistency of Allowing Tuition Tax Credits

A governmental institution, such as Congress, which has the authority to tax, also has the somewhat arbitrary authority and responsibility to decide what to tax and what not to tax, as well as to determine tax rates. Congress was given these powers relative to income taxes by the XVI Amendment. A decision to abstain from taxing made by Congress does not constitute a grant or subsidy, as the Supreme Court pointed out in *Walz* (1970) and in *Gibbons* (1886).[119] In the exercise of this partly arbitrary and pragmatic power of taxing and not taxing, it is still incumbent upon Congress to be reasonably fair and consistent, especially in view of the V and XIV Amendments.

Tax exemptions and deductions are generally allowed for two reasons: a) to encourage non-profit institutions and activities which contribute to the public welfare, and b) to reduce the difficulty of paying taxes on the part of those who have greater difficulty in paying them through no fault of their own or for a legitimate reason. To these the Supreme Court, as has been noted, added a third reason: c) To reduce involvement between churches and government.[120] Tuition tax credits qualify on all three counts, as is easily seen.

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[117] *Nyquist*, 413 U.S. at 803.

[118] *Harvard Law Review*, vol. 92, no. 31 (Jan. 1979), 696, at 707. The article was making the point that in *Nyquist* the Supreme Court stressed separation at the expense of neutrality.

[119] *Gibbons v. District of Columbia*, 116 U.S. 404 (1886) at 679-80; cp. *Walz* at 675-80.

[120] See *Walz* at 674-76. .

But more about point a):

Church-related schools contribute to the public welfare in many ways, including the following: 1. Church-related schools provide secular instruction, which is a public as well as a private benefit. Actually, whatever may be said to the contrary, this occupies the greater part--at least 90% of their school time. This secular instruction satisfies both state requirements and the standards of demanding parents who pay for it. At present the quality of this secular instruction is at least equal to and may often be superior to that received in public schools.[121] 2. In addition to adequate and sometimes superior instruction in secular subjects, church-related schools also provide religious and moral instruction, beneficial to our nation, as well as to the students involved. As the Supreme Court said in the *Zorach* decision: "When the State encourages religious instruction . . . it follows the best of our traditions. For it then respects the religious nature of our people, and accommodates the public service to their spiritual needs".[122] Speaking of a general class of tax-exempt, non-profit institutions enjoying tax exemptions and deductions in the State of New York that includes church-related schools, the Supreme Court in *Walz* said: "New York, in common with the other States, has determined that certain entities that exist in a harmonious relationship to the community at large, and that foster its 'moral or mental improvement' should not be inhibited in their activities by property taxation or the hazard of loss of those properties for nonpayment of taxes. . . . The State has an affirmative policy that considers these groups as beneficial and stabilizing influences in community life. . . ".[123] The Supreme Court has consistently accepted the public purpose of attempted aid to church-related schools. 3. Church-related schools also confer other benefits upon the public at large. Thus they: a) Preserve pluralism, free choice, and private enterprise in education; b) Preserve traditional religions and morality in education and stem the tide of secularism; c) Provide needed and desired educational alternatives for students and parents; d) Help to keep public education healthy by competition and comparison.

Consequently, contributions and payments to church-related schools can easily qualify for tax deductions or credits both for themselves and for their contributors and patrons. Such would make our taxation and tax exemptions and deductions policy much more consistent.

Allowing tax deductions for costs of education, especially tuition, is already an established government policy. The costs of public education paid through state and local taxes are already tax deductible. Pre-school day care and education is tax deductible, as also is much education one obtains after once having entered the workaday world. Instances of the latter include costs of education necessary to keep one's job, improve one's technical or professional competence, or obtain new employment.

One tax authority argues that either public school patrons should be taxed for the free and costly gift of public education they receive for the education of their children, or those who pay tuition for the education of their children in private schools should be released from corresponding taxes. He points out that the effective net income of parents who pay tuition for their children's education in compliance with state compulsory education laws is thereby reduced, while the effective net income of parents who receive free public education for their children is thereby increased or preserved. This unequal tax treatment of parents can be corrected and equalized either by allowing tax credits for the parents of children in private schools or by taxing the added effective income of parents of children in public schools.[124]

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[121] See the Study by Professor James Coleman and Associates cited above.

[122] *Zorach*, as cited above, at 314.

[123] *Walz* at 672-73.

[124] Cp. Glen A. Yale, *Harvard Journal on Legislation*, vol. 16, no. 1, pp. 91-128.

A principle involved is that cancellation of an indebtedness or payment of one's necessary expenses by a third party is routinely considered a form of taxable income.[125]

It is difficult to see how:

a) It is constitutional to advance the *wholly* religious mission of churches by the *direct* benefits of tax exemptions and deductions for churches, but unconstitutional to advance the *only partially* religious mission of church-related schools by the *indirect* benefits of tax deductions (tax credits) for parents paying tuition.

b) It is constitutional to allow tax deductions for contributions or payments to *churches* made by members, that amount to membership fees, yet unconstitutional to allow such for the same made to church-related *schools* when the latter amount to tuition fees.

c) It is constitutional to allow tax deductibility for contributions to church-related schools which *wholly* advance the latter's mission, yet unconstitutional to allow such deductibility for tuition payments to church-related schools which only *partly* advance the latter's mission because of expenses involved.

d) Tax deductions are disallowed for payments or tuition at church-related schools on two contradictory scores: a) because they are purchases of secular benefits on the one hand, and b) because they are said to advance religion by inculcating spiritual values on the other hand.

2. The Constitutionality of Tuition Tax Credits for Elementary and Secondary Education Alone According to the Constitution Itself.

Tuition tax credits for elementary and secondary education alone, as well as other forms of tuition and educational tax credits previously discussed, would be in harmony with the Constitution. While present limitations do not permit a full discussion of this topic, a summary of arguments for this assertion may be given. That tuition tax credits for elementary and secondary education only should be acceptable according to existing Supreme Court guidelines has already been shown. But this is even more clearly and fully apparent when one considers various provisions of the Constitution of the United States.

The First Amendment's Religion Clauses

The religion clauses of the First Amendment were not intended to prohibit general non-discriminatory government aid to religion, nor were they so interpreted by the Supreme Court until the Black opinion in the *Everson* case (1947).[126] Subsequently the Supreme Court has modified and redefined this principle, presently expressed in the tripartite test, which maintains that "the" or "a" *primary effect* of legislation cannot be to advance religion. Nevertheless, the Supreme Court has occasionally endorsed government aid or favor to religion, largely on the basis of the free exercise clause, as in the *Sherbert* (1963), *Zorach* (1952), *Walz* (1970), and *Yoder* (1972) cases. It has also admitted that there is some tension between the non-establishment and free exercise clauses of the First Amendment.[127] Yet many authorities would maintain that the United States Constitution does not prohibit general non-discriminatory aid to religion or legislation having this as a primary effect.

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[125] Glen A. Yale, as cited.

[126] See above.

[127] See *Sherbert v. Verner*, 374 U.S. 398 (1963); *Zorach*, as cited above; and *Wisconsin v. Yoder*, 406 U.S. 205 (1972); as well as *Walz* as cited, for examples of aid or favor. Regarding "tension" between the religious clauses see *Nyquist* at 788.

They base this contention on the legislative and early history of the First Amendment, the basic purpose of (or "values" sought by) the First Amendment, and the full meaning of the word "religion" in the First Amendment according to the Supreme Court itself.

Origin and Early History of the First Amendment's Religion Clauses

Any legislation, including fundamental law found in a Constitution, must be interpreted in the light of the intentions of those who enacted it. Those who made the First Amendment part of the fundamental law of our land did not intend to forbid Congress to aid religion or religions in general on a non-discriminatory basis; nor was their action so interpreted until recent times.[128]

When our Constitution was originally submitted to the States, many of the latter, in accepting it, insisted on certain guarantees, eventually formulated by the First Continental Congress as the "Bill of Rights." Many of the states had recently disestablished churches, while some still had established churches. Neither category wanted Congress interfering with their religious arrangements or legislating concerning religion: hence the religious clauses of the First Amendment: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." An "established church" or "establishment of religion" was well understood as a religion or religions especially favored and supported by the government. Neither the members of Congress who discussed and approved the First Amendment nor the legislatures and citizens of states who passed them meant that the latter should prevent federal aid to religion in general or non-discriminatory federal aid to various religions. And so the Amendment was understood by Congress, which proclaimed in the "Northwest Ordinance" (1787 and 1789): "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."[129] In accordance with this principle, Congress provided lands for churches on the Western frontiers, financially subsidized missionaries among the Indians, and maintained chaplains for the armed forces. Meanwhile the states made grants to private schools, most of which were church-related.

With the rise of public education in the mid-19th century, together with nativist and anti-Catholic movements, there was a movement to deny public financing to church-related education. This was aided by the fact that most public schools inculcated a sort of general non-denominational Protestantism. Prohibitions against aid to churches and church-related education were now introduced into many state constitutions. But attempts to introduce a prohibition of this type into the U.S. Constitution were repeatedly defeated -- evidence of the fact that most legislators and lawyers as well as most citizens did not believe that the U.S. Constitution already forbade non-discriminatory aid to religion and church-related schools.[130] Meanwhile leading constitutional authorities such as Story and Cooley explained establishment of religion simply as special governmental favor for one or several religions as compared to other religions.[131]

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[128] See Chester J. Antieau, *et al.*, *Freedom from Federal Establishment: Formation and Early History of the First Amendment Religion Clauses* (Milwaukee: Bruce, 1964); Walter Berns, *The First Amendment . . .* (New York: Basic Books, 1976); and Daniel D. McGarry, "The Original Intent, Meaning, and Application of the Religion Clauses. . . .," in *Educational Freedom*, vol. 9, no. 2 (Spring, 1971), 1-22.

[129] *Documents of American History*, ed. H. S. Commager (New York: 1949), p. 131.

[130] See Daniel D. McGarry, "The Supreme Court Has Adopted a New Constitutional Amendment," in *Educational Freedom*, vol. 13, no. 2 (Spring, 1980), 1-4; and F. William O'Brien in *Washburn Law Journal*, vol. 4 (1965) pp. 183-210.

In 1900 the Commonwealth of Australia adopted a Constitution including religious non-establishment and free exercise clauses modeled on those in the U.S. Constitution. The Australian prohibitions read: "The Commonwealth shall not make any law for establishing any religion . . . or for prohibiting the free exercise of any religion. . . ."[132] Recently the High Court of Australia decided, by a 6 to 1 vote, that these constitutional prohibitions did not prevent the Commonwealth government from providing financial aid to church-related schools in Australia. This decision was partly based on an informed understanding among the judges that both in the United States and in Australia at the turn of the century (ca. 1900) "establishing a religion" meant favoring a particular religion or religions as an official state religion or state church. The Australian High Court refused to follow the line of reasoning of the U.S. Supreme Court on this subject.[133]

For over a century and a half prior to the *Everson* case the view that the religion clauses of the First Amendment prevented nondiscriminatory governmental aid to religion in general and to church-related education in particular was not considered a part of our constitutional law.[134] This concept was introduced by Justice Black in the opinion he produced for the majority in the *Everson* case, when he wrote: "Neither a state nor the Federal Government can . . . pass laws which aid one religion, aid all religions, or prefer one religion over another." Black and four concurring associates maintained that this was the intention of these who originated the First Amendment, but they based this assumption on faulty history presented in an (opposing) brief presented by the American Civil Liberties Union (A.C.L.U.).[135] Black's reproduction of the story of the First Amendment as told in the A.C.L.U. brief assumes that the religion clauses were the work of Madison and Jefferson, and that those who formulated and adopted them had the same purpose as Madison and Jefferson in promoting the "Virginia Bill for Religious Liberty," which opposed even nondiscriminatory state support of religions. But this was not the case, as is shown by the records. An amendment protecting religious freedom was proposed by several states after the Constitution had been composed. The Amendments exact text was debated and finally formulated in Congress, and after acceptance therein it was submitted and voted on in the several states. Madison did not think the First Amendment was necessary and merely participated in its perfection; while Jefferson was not even present in the country at the time of the formulation and adoption of the religion clauses.[136] Since 1947, the sixteen words of the religion clauses of the First Amendment have assumed enormous proportions largely based on Black's faulty history and assumption of their purpose, as has been seen.[137]

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[131] Joseph Story, *Commentaries on the Constitution* . . . (Boston, 1833), SS 1874, 1879; Thomas M. Cooley, *Constitutional Limitations* (2d ed., Boston, 1871), p. 469; and Thomas M. Cooley, *General Principles of Constitutional Law* . . . (3d ed., Boston, 1898), pp. 224-25.

[132] *Constitution of the Commonwealth of Australia*, s. 116.

[133] See *State of Victoria v. Commonwealth of Australia* (1981), Decision of the High Court, Slip Opinion, v.g.) at 15-24, etc. See *Commonwealth Law Report, High Court of Australia*, vol. _____ (1981).

[134] This conviction is noted in the opinion of the Australian High Court justices cited above.

[135] See *Hearings, Senate, 1980*, where this brief is reproduced, Black was once a member of the K.K.K. (Ku Klux Klan). See Charlotte Williams, *Hugo Black* . . . (Baltimore: Johns Hopkins Press, 1950, p. 28, which quotes Justice Black's public radio speech reported in the *New York Times* Oct. 2, 1937), wherein he says, "I did join the Klan."

The general purpose of the religion clauses of the First Amendment, was to preserve and promote religious freedom, while their immediate purpose was to prevent Congressional interference with such freedom. These purposes or "values" have been formulated in various ways in various legal periodicals over the past two decades. Among suggested key values have been voluntarism and neutrality. A recent article concerning the First Amendment and Tuition Tax Credits in the *Harvard Law Review*, consisting in a "Note" by the latter's editors entitled "Government Neutrality and Separation of Church and State: Tuition Tax Credits" characterizes the guiding principles used by the Supreme Court in church and state cases as "voluntarism, neutrality, and separation."[138] "Voluntarism," or personal free choice and conduct regarding religion, is promoted by both government neutrality relative to religion and by separation of church and state, according to the article. But the article observes that neither neutrality nor separation are (or can be) absolute principles, and they require "balancing" of one against the other. Recent Supreme Court decisions have emphasized separation at the expense of neutrality,[139] as when the Court has denied tax benefits for parents of children in church-related schools on the basis of the principle of separation.[140] To invoke separation in the case of generally provided government services or benefits can violate neutrality and work against religious voluntarism, as by discouraging choice of church-related schools. In such a case, "balancing" or compromise between the two principles of neutrality and separation is necessary in order to preserve voluntarism. Such balancing is exemplified by governmental provision of chaplains for members of the armed services, and allowance of property and income tax exemptions and deductions for religious institutions. Similarly, income tax credits or deductions for tuitions paid to church-related schools would balance neutrality and separation, and respect voluntarism. As the article points out, "The Supreme Court has held that an indirect burden on religious choice caused by the withholding of public benefits can violate the free exercise clause." And as the article observes: "compromise is desirable where the state is the dominant provider of an important service which is connected to religious exercise, areas where 'the pervasive activities of the State justify some special provision for religion to prevent it from being submerged by an all-embracing secularism.'"[141]

"Religion"

Even supposing that the First Amendment religion clauses *did* prohibit aid to religion in general, it would still, *a fortiori*, prohibit special aid and support for one religion as opposed to others. Our present educational financing policy as enforced by the Supreme Court, is inculcating entirely secular outlooks and values as opposed to those of traditional religions. For secular concepts and values are welcomed with open arms in our public schools, which are exclusively supported by our governments, while those of traditional religion are rigidly excluded from the same public schools due to sectarian diversity and Supreme Court decisions. Meanwhile government support is denied to church-related education. This amounts to government support of "Secularism" or "Secular Humanism," which denies the teachings of traditional religions and avers that we should be exclusively concerned with this temporal life and human welfare here and now. But this Secularism or Secular Humanism has been repeatedly labeled and defined by the Supreme Court as a "religion."[142] Accordingly our present system of educational financing and taxation with its exclusive public subsidization of public education which inculcates only secular concepts and values, and denial of any participation in public benefits to education which inculcates traditional religious as well as secular concepts and values--amounts to an "establishment" or "advancement" of the "religion" of Secularism. Allowance of tax credits, at least, for part of tuitions paid at church-related schools would give traditional religions a better chance to compete with the all pervasive influences of Secularism in our public schools and the media, and would prevent the virtual establishment of Secularism as a national religion in violation of the First Amendment.

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[136] See works of Antieau and Berns as cited above. Also article by McGarry.

[137] Neither the A.C.L.U. brief nor Black's assumptions based thereon recount and document the actual history of the First Amendment.

[138] *Harvard Law Review*, vol. 92, no. 3 (Jan., 1979), 696-717.

[139] Some express this as emphasizing "non-establishment" at the expense of "free exercise."

[140] Or on the basis of the non-establishment clause.

[141] *Harvard Law Review*, as cited, at 701 and 711-12, citing *Sherbert v. Verner*, 374 U.S. 398 (1963), both in general and at 422.

"Free Exercise"

Various articles in legal publications have recently called attention to the fact that in cases concerning possible aid to church-related education, Supreme Court decisions have been stressing the non-establishment clause at the expense of the free exercise clause of the First Amendment. As our country comes to be more socialized--more of a "social democracy"--and as our governments come to control and dispense more and more of our resources, it becomes ever more necessary that all institutions, including church-related ones, and even churches themselves, share at least to some extent in government services and benefits. This is particularly true in the field of education, where government financing, using taxes derived from all citizens, has come to prevail on all levels. Here extreme separation of church and state and rhetorical exaggeration of the dangers of supposed "establishment" can eventually amount to a death sentence for substantial private education. Some real government encouragement of education that includes religion with secular subjects, alongside total government support of entirely secular public education that excludes religion is necessary in order to allow "free exercise" of religion. An essential part of the "free exercise of religion" is freedom to transmit one's religion to one's children in an effective manner. But many educational experts and many parents agree that effective transmission of the frail yet beautiful, exotic plant of religion can ordinarily be accomplished only by day-to-day instruction and training by professionals, integrated with the progress of students in secular learning. This requires existence of schools that include religious instruction as well as secular instruction on a regular basis. To penalize parents who choose such schools for their children by complete denial of any share in general tax benefits unless they send their children to entirely secular public schools is certainly to inhibit free exercise of religion. It is to hamper the true purpose of the religion clauses--voluntarism or complete freedom of religion--by the exclusive and narrow (as well as mistaken) consideration of only one of two counterbalancing clauses. In fact, as many constitutional experts note, non-establishment is a means to free exercise, rather than vice versa.

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[142] See Torcaso v. Watkins, 367 U.S. 488 (1961) at 495; and Abington School District v. Schempp, 374 U.S. 203 (1963) at 225; cp. United States v. Seeger, 380 U.S. 163 (1965) at 176; and Welsh v. United States, 308 U.S. 333 (1970).

and the latter should regularly take precedence over the former.[143]

Freedom of Speech and of the Press

Allowance of tuition tax credits would also promote observance of the First Amendment's prescriptions concerning governmental respect for freedom of speech and freedom of the press. Inclusion of religion in teaching and in textbooks used in schools is certainly an important aspect of freedom of speech and the press, especially when such is provided for children whose parents desire it. Prohibition or penalization of such, on the other hand, inhibits freedom of communication and expression as well as freedom of thought.

The Purpose of the Constitution

An obvious and well-recognized leading purpose of our Constitution is to promote maximum personal freedom. The "Preamble" to the Constitution declares: "We, the people of the United States, in order to form a more perfect Union . . . and secure the blessings of liberty for ourselves and our posterity . . . do ordain and establish this Constitution." The United States is "the land of liberty," and "the home of the free." "Liberty" is the watchword of our Constitution which is carefully designed to protect our liberties. All powers not expressly given to our central government are reserved to the states and their citizens. The Tenth Amendment specifically provides that "the powers not delegated to the United States by the Constitution are reserved to the States respectively or to the people." In addition, the various powers that are allowed to the central government are distributed among its three coequal branches, creating a "balance of powers," also protective of personal freedoms. The terms of office of our federal legislators and chief executive officers are limited, in accordance with the same principle.[144] The powers of our various branches of government are carefully listed and specified.[145] Meanwhile numerous specific limitations and restrictions are imposed upon our central government.[146] The personal and familial rights and liberties of our citizens are protected, as far as possible, by our Constitution. In most cases this concern for liberty has been a "guiding star" of our Supreme Court in constitutional interpretation.

Of key importance among our constitutional liberties is the freedom of our citizens to choose freely among alternatives concerning important issues and at key junctures of life.[147] One of these fundamental choices in life is choice of education. Here familial choice is exercised by loving parents on behalf of their children until the latter reach maturity. Meanwhile parents are responsible for the "nurture" of their children: mental, spiritual, and moral, as well as physical, as our Supreme Court has stated on several occasions.[148] Freedom is especially necessary in things of the mind.

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[143] The issue of free exercise of religion here involved is well-discussed in the written testimony provided by the Center for Constitutional Studies of the Notre Dame University Law School for the Senate Committee hearings on Tuition Tax Credits, *Hearings, Senate, 1980*, pp. 422-58, at 443-44.

[144] A sometimes criticized exception exists in the case of judges.

[145] As in Article I, Section 8; Article II, Section 2; Article III, Section 2; and Amendment XVI.

[146] See Article I, Section 9; Amendments I through X: the First Ten Amendments: "the Bill of Rights;" and Amendments XIII, XIV, XV, and XXIX.

[147] Such as marital and occupational choices.

[148] See *Pierce v. Society of Sisters*, 268 U.S. 510 (1925) at 534-35. Cp. *Meyer v. Nebraska* 262 U.S. 390 (1923) at 400. Also see *Wisconsin v. Yoder*, 406 U.S. 205 (1972), particularly at 204-205, 210-12, and 217-19.

The kind of education we receive determines not only the content of our mind, but also the very "form" of our mind, including its habitual processes and accepted premises. Avoidance of mental standardization by a state monopoly of education in violation of traditional parental rights is one of the reasons why the Supreme Court, in the Pierce case (1925), declared:

"The fundamental theory of liberty upon which all governments in this union repose excludes any power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State: those who nurture him have the right, coupled with the high duty, to recognize and prepare him for additional obligations."[149]

Freedom of choice in education, as in any other field, can be negated and destroyed by financial penalization of its exercise, as well as by direct prohibition, as the Supreme Court noted in the Sherbert case (1963).[150] In Christian lands of the Near East and North Africa conquered by the Arabs in the 7th century A.D., the new rulers exempted Moslems from tributary taxes, but required such of the rest of the inhabitants. This tax policy contributed mightily to the fact that the vast majority of the population in these lands is today Moslem.[151a]

V. THE TUITION TAX CREDIT PROPOSAL OF PRESIDENT REAGAN

On April 15, 1982, President Ronald Reagan proposed legislation that would provide modest tax credits for part of the cost of tuition paid for basic elementary and secondary education. In doing so, he was fulfilling a campaign pledge on the one hand, and risking the severe displeasure of determined political opponents such as the National Education Association of public school educators on the other.

The Reagan Proposal

The tuition tax credits proposed by President Reagan would be limited to elementary and secondary education, and would not include higher education as does the Packwood-Moynihan bill. They would also be simple credits against taxes otherwise owed, and would not have a "refundability" feature whereby those who did not owe sufficient taxes would receive corresponding cash amounts, as does the Packwood-Moynihan bill. The tax credits proposed by the President would be available for not more than 50% of the tuition paid, and would be further limited by a ceiling of $100 the first year,[151b] $300 the second year, and $500 the third year. Tax credits would be less for families with incomes of from $50,000 to $75,000 a year, and unavailable for families with incomes of over $75,000. Provisions to prevent racial discrimination and segregation would also be included.

The tuition tax credits advocated by the President would be targeted to that form of education that currently needs help the most: voluntary private elementary and secondary education. For there are already forms of governmental assistance for both institutions and students in the case of private higher education. Public elementary and secondary education is wholly paid for and public higher education is mainly paid for by the government, so that they have no immediate pressing need for help. The Reagan proposal would have the advantage of being much less expensive than the Packwood-Moynihan plan, since it would not include higher education, thus reducing the cost by two-thirds. The tax credits would also be reduced or unavailable for families with higher incomes. They would put less strain on the federal budget, since they would be implemented slowly. They would not be in operation in 1982, and would be only $100 in 1983, $300 in 1984, and $500 in 1985 (despite probable continuing inflation).

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[149] Pierce, as cited above, at 534.

[150] Sherbert, as cited above, at 404.

[151a] See Philip K. Hitti, History of the Arabs (New York: Macmillan, 1951), pp. 170-73, and passim.

[151b] The first year would be 1983.

The absence of so-called "refundability" or equivalent cash grants for those with insufficient tax liability would reduce both the cost of the legislation and the chance of its being declared unconstitutional. For cash grants for religious institutions have been disapproved by the Supreme Court whereas tax exemptions and deductions have been approved by the same Court. On the other hand, the absence of tuition tax credits for higher education, while greatly reducing the cost of the legislation, will also somewhat reduce the assurance of its being accepted as constitutional. For the majority of the beneficiaries of the bill will then be parents of children in church-related schools, which will make the bill "suspect" in the eyes of some members of the Supreme Court.

Advantages

The tuition tax credits for elementary and secondary education will have the advantages of tuition tax credits in general discussed in our Section II above. Thus they will make our tax policy more consistent as well as more equitable, will help to preserve our dual system of public and private education, will continue the advantages of private enterprise in education, will keep public education healthy by the comparison, competition, and example provided by private education, will sustain and advance our individual and familial freedoms, will acknowledge the rights of parental choice and free exercise of religion in education, will prevent the establishment of a "religion" of secularism, will uphold freedom of thought and communication, and will be efficient and almost 100% cost-effective.

An important advantage of tuition tax credits will be the considerable savings they will preserve and increase for taxpayers. These savings will range from $17 billion to $24 billion a year. The current cost of public elementary and secondary education is about $3,000 per student per year.[1] The five and a half (5½) million students in private elementary and secondary schools at present save taxpayers some $16.5 billion (5.5 million x $3,000) a year. In the period from 1959 to 1979 the per pupil "cost" of public education rose about 5 times, or twice the rate of inflation.[2a] Assuming only an 8% annual rise in cost from 1982 to 1985, the per pupil cost of public education will be at least $3250 in 1983, $3500 in 1984, and $3750 in 1985. As will be seen, this per pupil rise of cost by $250, $500, and at least $750 will more than offset the per pupil tax credit costs of $100, $300, and $500.[2b]

The Reagan proposal for tuition tax credits would cost nothing in 1982, since the plan would not go into effect until 1983. In the latter year (1983), with tuition tax credits of $100 and an estimated maximum of 4½ million out of 5½ million parents of students eligible for and actually taking tuition tax credits, the plan would cost at most about $450 million. In 1984, with tax credits of $300, the plan would cost at most $1.35 billion, and in 1985, with credits of $500, it would cost a maximum of $2.2 billion. Notwithstanding the tax credits (supposing a constant number of students), the savings would still continue to increase annually.[3] Thus the savings for taxpayers even with the tax credits, would be $17.42 billion in 1983 (5.5 million students x $3,250 per student minus $450 million cost of credits); $17.9 billion in 1984 (5.5 million x $3,500 minus $1.35 billion); and $18.37 billion in 1985 (5.5 million x $3,750 minus $2.2 billion). In addition, if only 5% of the current number of students currently in nonpublic schools were to attend nonpublic schools because of tuition tax credits, annual savings for taxpayers would be increased by $5.62 billion (45 million x 5% = 2.25 million x $2500 ($3,000 minus $500 tax credit) = $5.62 billion). This would bring annual savings to over $24 billion ($18.42 plus $5.62 billion) by 1985.[4a] Actually, the "costs" ascribed to tuition tax credits will probably be considerably less and the resultant savings considerably more, due to the fact that an estimated one-third or more of non-public school patrons do not pay tuitions and instead support their schools by deducted contributions (rather than tuitions).[4b]

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[1] Digest of Education Statistics, 1981, and Projection of Education Statistics . . . Estimated cost for 1982-1983.

[2a] Digest of Education Statistics, 1981, p. 82.

[2b] The administration estimates the annual cost will be $100-200 million in 1983, 300-600 million in 1984, and one-half to one billion in 1985.

Even if the aforesaid savings were reduced by 20%, as might be the case, the savings with the proposed tax credits would still be $13.2 billion ($16.5-3.3 billion in 1982), $13.94 billion ($17.42 - 3.48 billion) in 1983; $14.32 billion ($17.9 - 3.58 billion) in 1984; and $14.74 billion ($18.42 - 3.68 billion) ($14.74 plus 4.5 (5.62 - 1.12 billion) by 1985.

The answers to opponents of the proposed tuition tax credits are the same as those we have already provided in Section II for objections to tuition tax credits in general. With regard to the alleged "cost" of the tax credits, while they would slightly reduce federal income by about $450 million to $2 billion a year, they would meanwhile ensure as well as increase savings of many billions of dollars for taxpayers at large. Instead of representing federal "funding," they would be instances of reasonable abstinence from taxation for good cause on the part of our federal government. The great majority of the parents benefited would be average citizens with average incomes. A considerable number of those aided would be classified as "poor," while the very affluent would be completely excluded and those with above average incomes allowed only partial tax credits. Racial discrimination would be prohibited and voluntary integration encouraged (as is currently exemplified in inner city private schools). Rather than threatening well-established and liberally funded public education, the small tuition tax credits would be helping to avert the threatened destruction of private education in this country. It is difficult to see how tuition tax credits for only a fraction of the cost of private education, ranging from one-thirtieth to one-eighth of the per pupil cost of public education, could of themselves attract away users of public education. Instead, the tax credits would assist public education by preserving the salutary comparison, example, and modest competition provided by private education.

The Constitutionality of the Proposal

While the proposed tuition tax credits for elementary and secondary education only would incur a somewhat greater risk in running the Supreme Court gauntlet, because a majority of the beneficiaries would be parents of students in church-related schools (a possible stumbling block for some of the Justices), the tax credits would still be constitutional both a) According to existing Supreme Court rulings, and b) According to the Constitution itself. Arguments for "The Constitutionality of Tuition Tax Credits for Elementary and Secondary Education Alone" in our Section IV above, would apply to the tuition tax credits proposed by President Reagan.

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[3] Because of inflation as has been noted.

[4a] For statistics see Digest of Education Statistics, 1981, and Projection of Education Statistics to 1986-87.

[4b] The administration further estimates that the average public school student currently costs the federal government $600 a year, due to state and local tax deductions.

(a) Constitutionality According to Existing Supreme Court Guidelines

The tuition tax credits proposed by the President would satisfy the tripartite test of purpose, effect, and entanglement for constitutionality established by the Supreme Court in the *Lemon* case and subsequently reaffirmed: (1) They would have a secular legislative *purpose*--the advancement of education and personal rights, as has regularly been acknowledged by the Court. (2) They would not result in excessive *entanglement* of church and state, since the only direct and substantial relationship created would be between the Internal Revenue Service and taxpayers claiming deductions for tuition paid. (3) Their primary *effect* would neither be to advance nor to inhibit religion.

The primary *effect* of the tuition tax credits would not be to advance religion. Their primary effect would be to ease the tax burden of parents who have to pay full tuition for the education of their own children (education required by some special need or by their conscience), at the same time that they have to pay high taxes for education, while rendering valuable public services (providing both secular and moral education of the young and reducing the tax burden of their fellow citizens). Secondary and indirect effects of the legislation would include improvement of education, promotion of private education, salutary influences on public education, and free exercise of religion in education. Although the largest percentage of the beneficiaries would be persons with children in church-related schools, the latter would be diversified and would have many different faiths, and there would also be a considerable percentage of patrons of predominantly secular schools. Looked at from the complete point of view of government financing of education, the beneficiaries of the legislation would be part of a very broad class of benefitted school children aided in various ways.[4c]

The proposed tuition tax credits would not correspond to the "hybrid benefits" condemned by the Supreme Court in *Nyquist*. For the latter were unrelated to and independent of actual expenditures and corresponded to direct grants, as the Court observed. Instead, they would be *true* tax deductions, related to and dependent on actual expenditures for *tuition*. As such they would correspond to the tax exemptions for churches approved by the Supreme Court in *Walz*, as not being grants or subsidies and as increasing rather than decreasing church and state separation and independence. Constitutionally and fiscally, they would be similar to and consistent with tax exemptions and deductions allowed for the property of churches and church-related schools and for contributions to churches and church-related schools. For public abstinence from taxation, exemplified by such tax exemptions and tax deductions, is not subject to the restrictions imposed upon money grants and subsidies by the Supreme Court, as the latter decided in the *Walz* case. The proposed tax credits (equalized tax deductions) would be *similar* to and consistent with other tax deductions and credits for expenditures which reduce ability to pay at the same time that they contribute to the general welfare.

(b) Constitutionality According to the Constitution Itself

The proposed tuition tax credits would also be constitutional according to the Constitution itself. They would not violate the non-establishment clause of the First Amendment since they would not "establish" or sponsor any religion or religions as opposed to others, or favor traditional religion as opposed to secularism or vice versa. Instead, they would decrease the present preferential treatment accorded to the "religion" of secularism or secular humanism by its sole admission and subsidization and the exclusion of all other religions from public schools and public subsidization. Allowing tuition tax credits would to some extent amount to more equalized government encouragement of religions and irreligion, including traditional religions as well as the "religion" or irreligion of secularism.

[4c] Beneficiaries would be both nationwide and diverse.

Many constitutional authorities agree and history as well as literal reading confirms that the non-establishment clause of the First Amendment was not meant to ban general non-discriminatory government aid to religion and religions. Nor was the clause so understood down to the time of the Black dictum in the *Everson* case (1947), which latter relied on unhistorical suppositions.[5] Down to at least the middle of the last century our federal, state, and local governments provided grants of land and money for education that was church-related, as indeed was the case with most education. Even today the Supreme Court still allows liberal public aid for private higher education that includes religion. Part of the prejudice against private elementary and secondary schools has arisen from the fact that most of them have been Catholic, although this situation is changing. Our Supreme Court has repeatedly labeled secularism a "religion." Allowance of tuition tax credits would lessen current possible violation of the non-establishment clause due to exclusive government subsidization of completely secular public education that provides strong public support and encouragement for the "religion" of secularism or secular humanism and discourages traditional religions.

Proposed tuition tax credits would also promote fuller observance of other provisions of the Constitution, such as those concerning the free exercise of religion, and freedom of speech and the press. They would likewise conform to the basic spirit and primary purpose of the Constitution which is to foster human liberties. As has been pointed out by several constitutional authorities, the Supreme Court, in its zeal for non-establishment of religion, has frequently overlooked--and even transgressed the free exercise of religion mandated by the First Amendment. The basic purpose of the religious clauses of the First Amendment is to facilitate free exercise of religion, especially when the latter is extended (as has been the case) to include all philosophies of life, including secularism. The proposed tuition tax credits would diminish our present governmental discrimination against education that includes traditional religion. They would also diminish the fiscal penalization of those parents who choose for their children a form of general education that includes religion alongside secular subjects. The tax credits would implement the constitutional right of parents "to direct and control the education of their children" affirmed by the Supreme Court in *Pierce* and subsequent cases. The tax credits would support and facilitate *fuller* freedom of speech and freedom of the press, thus enhancing our essential human rights of freedom of thought and communication. They would decrease discriminatory and unequal treatment of one class (albeit a minority) of our citizens: those whose conscience and judgment dictate use of schools that include religion along with secular subjects.

Conclusion

Tuition tax credits should be allowed. Today in the United States, the expenses of our public schools are *totally* funded by public taxes and are also deductible from federal income taxes. In contrast, *no part* of the personal expense of education obtained in nonpublic schools *for valid* personal reasons is funded by the government or is even tax-deductible. An allowance of partial tax deductions for tuitions paid for private education would do much to protect our personal freedoms and sustain effectively our traditional and constitutional right of freedom of choice in education, as well as make our fiscal system more equitable and consistent.

Daniel D. McGarry
Professor Emeritus
Saint Louis University

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[5] See works by Chester Antieau, *et al*, & Walter Berns, etc., cited above.

WHAT ABOUT "THE FOUR CASES"?

Opponents of proposed tuition tax credits have been alleging that such have been declared unconstitutional in "four cases." This is an error since, as former Assistant Attorney General Antonin Scalia (now Professor of Law at Stanford University) has testified: "The issue has never been resolved by any holding, or even by any consistent line of dictum from the Supreme Court."[1]

The "four [sometimes five] cases" alleged by opponents are Nyquist, [Sloan], Minnesota Civil Liberties Union, Norberg, and Byrne.[2] In four of those cases (all except Sloan) some apparent form of tax deduction or tax credit was declared unconstitutional by some court, but in each instance the benefits differed from those currently proposed. Moreover all the decisions were based on a temporary judicial interpretation in Nyquist subsequently modified by the Supreme Court.

The tuition tax credits currently proposed differ from those disapproved by the Supreme Court in the Nyquist line of cases (Minnesota C. L. U., Byrne, and Norberg) in that they would be true tax deductions or credits, would have a broad class of beneficiaries, and would also be the product of the Congress of the United States, which is co-equal with or superior to the Supreme Court, instead of a state government. The proposed tax credits would be true abstentions from taxation: true tax deductions or credits. As such they would be a neutral exercise of the taxing power of the United States government. They would be similar to the tax exemptions for churches approved by the Supreme Court in the Walz case (1970), as decreasing rather than increasing the separation of church and state, and enhancing their reciprocal independence.[3]

The principal case cited by opponents of tuition tax credits is the Nyquist (1973) case, upon which the other cases depend. In this case, the tuition tax credits rejected by the Supreme Court corresponded, as the Court noted, to grants, and were not merely abstentions from taxation. For they were the exact equivalent of grants allowed for the less affluent who did not have sufficient tax liability, and they bore no relationship to actual expenditures for tuition on the part of beneficiaries. They also had a narrow class of beneficiaries of whom the overwhelming majority were parents of children in Catholic schools in New York State. They thus had an effect of encouraging attendance at Catholic schools and advancing a religion. Prior to Nyquist, having a secondary effect of advancing religion (as in the case of the Sunday closing laws and the allowed bus rides and textbooks) was not sufficient to disqualify a law as long as the latter's primary effect was secular. But the Nyquist majority opinion, written by Justice Powell, changed this by saying in footnote 39 that any legislation having a direct and immediate effect of advancing religion was unconstitutional, regardless of whether or not the primary effect of the legislation was secular. The Nyquist note 39 required that the advancement of religion be only a "remote and incidental" effect in order for the legislation to be constitutional.[6] The Nyquist footnote (39) disavowed the necessity of making a "metaphysical judgment" as to what was the primary effect. That the effect of advancing religion was "direct and immediate" as in the case of the monetary grants or "rewards" provided for the less affluent was enough to disqualify,and the equivalent tuition tax credits were assimilated to the latter.

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[1] Antonin Scalia, Testimony of the Constitutionality of Tuition Tax Credits (Washington, D.C.: American Enterprise Institute, Washington, D.C., 1978), p. 1.

[2] Each is discussed below.

[3] Walz v. Tax Commissioner, 397 U. S., 664 (1970); cp. at 675.

[4] Committee for Public Education v. Nyquist, 413 U.S. 756 (1973).

[5] At 783, n. 39.

[6] At 783, n. 39.

This principle enunciated in footnote 39 of Nyquist was for a while interpreted as meaning that any substantial assistance for church-related education was unconstitutional. This interpretation was applied in the Minnesota Civil Liberties Union (1974) case,[7] and seemingly also in the Meek (1975) case.[8] But the Supreme Court has seemed to reject or retreat from such an interpretation in its more recent Wolman (1977) and Regan (1980) decisions.[9] The Supreme Court perceived the tuition tax credits in Nyquist as having a direct and immediate effect of advancing religion because of the Court's identification of these credits as "grants" or "rewards" in view of their special nature and attendant circumstances. This would not be the case with ordinary tax deductions of credits. Also the equipment and supplies provided by the state rejected in the Meek case represented monetary expenditures and could be used for inculcating religion, according to the Court.

The Sloan case (1973),[10] sometimes cited by opponents,[11] although decided along with the Nyquist case, did not directly concern tuition tax credits. Instead, Sloan concerned tuition reimbursements in cash made by the state of Pennsylvania without any relationship to tax liability. It simply does not apply to our question.

The Minnesota Civil Liberties Union case (1974)[12] was a state case decided by the Minnesota Supreme Court. Apparently with some reluctance, the Minnesota Supreme Court decided that the Minnesota income tax credits allowed for tuition paid for elementary and secondary education must be regarded as unconstitutional because of the Nyquist interpretation regarding effect. The Minnesota Supreme Court interpreted the Nyquist decision and its note 39 concerning the challenged tuition tax credits to mean that the primary effect test had become an "any effects" test that banned any "substantial aid" and was a "no aid" rule.[13]

While the Meek decision and opinion of the Supreme Court L975) did not directly concern tuition tax credits, it did seem to confirm the Minnesota decision in that it banned state provision of instructional materials to nonpublic schools as being "substantial aid" that "inescapably results in the direct and substantial advancement of religious activity."[14] This seemed to establish a "no [substantial] aid" standard as well as a "no effect" [substantially favorable to religion] standard. The no substantial aid interpretation (written by Justice Stewart for the majority) referred to note 39 of Nyquist.[15]

This same interpretation was applied by a federal district court in the

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[7] Minnesota Civil Liberties Union v. Minnesota 224 N.W. 2d 344 (Minn. 1974); cert. den. 421 U.S. 88, 95 S.Ct. 1990 (1975).

[8] Meek v. Pittenger, 421 U.S. 349 (1975).

[9] Wolman v. Walter, 433 U.S. 229 (1977); and Committee for Public Education v. Regan, 444 U.S. 646 (1980). See David J. Young and Steven W. Tigges, Federal Tuition Tax Ctedits. . . . Washington, D.C., National Catholic Education Association, 1982).

[10] Sloan v. Lemon, 413 U.S. 825 (1973).

[11] Referred to above.

[12] Minnesota Civil Liberties Union v. Minnesota, 224 N.W. 2d 344 (Minn. 1974), at 353.

[13] Meek v. Pittenger, 421 U.S. 431 (1975).

[14] 421 U.S. at 366.

[15] Meek v. Pittenger, 421 U.S. 349 (1975) at 364-366 and 373 and n. 1.

Byrne case (1979)[16] wherein New Jersey's income tax deductions for persons with dependents in nonpublic schools were declared unconstitutional. As in Nyquist, the district court pointed out that (1) the allowable tax deductions were not true tax deductions since they were unrelated to actual expenditures, and (2) they had a narrow class of beneficiaries composed mainly of parents with children in church-related schools.[17]

In the Norberg case (1979 and 1980),[18] both a federal district court and the First District Court of Appeals rejected a Rhode Island law providing for deductions of elementary and secondary school expenses, including tuition, in calculating state income taxes was unconstitutional. Using the "no [substantial] aid" principle supposedly laid down by the Supreme Court in Nyquist, the Norberg courts quashed the Rhode Island law. They said that the latter had "a primary effect" of advancing religion since it encouraged parents to send their children to private schools, the great majority of which were church-related and inculcated religion. The Norberg courts characterized the New Jersey tax deductions as "a charge upon the state," and said that the inclusion of the educational expense of parents of public school children was "de minimis" and "mere window dressing." They also said that the challenged tax deductions were not simple abstentions from taxation, and that they did not minimize relations between church and state. They further pointed out that the New Jersey tax deductions "piggybacked" federal income taxes and potentially benefited all taxpayers with any tuition expenses.

For a while from 1973 on both state and federal courts, allegedly following the lead of the Supreme Court in Nyquist,employed a "no [substantial] religious effect" and "no [substantial] aid" test which revolutionized previous interpretations of the "no establishment of religion" clause of the Constitution. Beginning in 1977, however, the Supreme Court has seemed to repudiate this extreme interpretation. In the Wolman (1977) and Regan (1980) cases, the Supreme Court had seemed to be rejecting this harsh interpretation and returning gradually to its earlier position. Thus in the Wolman case (1977)[19] the Supreme Court approved state provision of standardized testing and scoring services, diagnostic apeech and hearing services, and special educational therapeutic and remedial services for nonpublic school children in Ohio. And in the Regan case (1980)[20] the Supreme Court approved large payments of money made directly to nonpublic schools for the costs of various testing and reporting services required by state law, even though such apparently provided "direct," "immediate," and "substantial" aid to church-related schools. In Regan, according to the majority opinion (written by Justice White), the Supreme Court adopted "a more flexible concept" of secular effect,[21] whereby aid was deemed permissible as long as it did not have "an appreciable risk" of advancing religion by being used to promote transmission of religion. In Regan the Supreme Court also refused to apply a strict "non entanglement" (of church and state) principle, or to insist on the inseparability of the religious and secular functions of church-related schools.

This same sort of "more flexible" interpretation was recently issued by both a federal District Court in Minnesota and by the Eighth District Federal

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[16] Public Funds for Public Schools ... v. Byrne, 444 Fed. Sup. 1228 (1978) and 590 Fed. Rep. 2d 514 (1979).

[17] At 518.

[18] Rhode Island Federation of Teachers AFL-CIO v. Norberg, 479 Fed. Sup. 1364 (1979) and 630 F. 2d 855 (1980).

[19] Wolman v. Walter, 433 U.S. 229 (1977).

[20] Committee for Public Education v. Regan, 444 U.S. 646 (1980).

[21] 444 U.S. at 653.

Court of Appeals in deciding the Mueller v. Allen case (1982).[22] These courts upheld Minnesota's tax deductions for educational expenses including tuition as constitutional. Relying on the fact that the tax benefits at issue were genuine tax deductions, and also that they had a broad class of beneficiaries, both the district court and the federal Appeals Court approved them, and characterized any resultant aid to religion as an "indirect and incidental," effect of the law. The Mueller courts thus rejected the Norberg courts' claim that this was a "primary effect," and returned to the same sort of interpretation and evaluation used by the Supreme Court in the Everson, Allen, and Tilton cases.[23]

Regarding the bearing of the various cases we have discussed on the question of the constitutionality of proposed tuition tax credits, the following should be noted:

In the Nyquist case (1973), on which all the other contrary cases are based, the Supreme Court characterized the tuition tax credits in question as grants, rather than true tax deductions, because of their nature and attendant circumstances, since they bore no relation to actual expenditures and they were the exact equivalent of monetary grants for the less affluent. Since they were "grants" that were available mainly for persons with children in independent schools, the great majority of which were (currently) church-related and Catholic, the Supreme Court considered the legislation as having "a direct and immediate effect" of advancing religion, and as being, for this reason, unconstitutional. As can be seen, there are a number of questionable assumptions in the reasoning. There may also be some confusion of supposed "purpose" and "effect." Furthermore there is the practical point that the Court could hardly have accepted the tax credits for the more affluent as constitutional after having rejected the equivalent grants for the less affluent as unconstitutional without seeming to be discriminatory. The accompanying Sloan case (1973), although sometimes cited, did not concern or even mention tax credits or tax deductions.

In the Minnesota Civil Liberties Union case (1974) the Minnesota Supreme Court (reversing a lower court decision, with some apparent reluctance) declared unconstitutional a state law allowing state income tax credits for tuition paid for elementary and secondary education on the basis of its interpretation of the meaning of the Supreme Court decision and opinion in Nyquist. This interpretation may have been extreme, since the Minnesota Supreme Court interpreted Nyquist to mean that any law resulting in substantial aid that mainly benefited church-related education was unconstitutional.

In the Meek case (1975), which did not directly concern tuition tax credits or deductions, the Supreme Court invalidated the "loaning" of instructional materials and equipment to nonpublic schools, the overwhelming majority of which were church-related. These "loans" the Supreme Court considered equivalent to grants.[24] The Court regarded the "loans" as having a "primary" as well as a "direct and immediate" effect of advancing religion by promoting education in church-related schools whose primary mission was religious. Thus the "loans," in the view of the Court, violated the establishment clause.

In the Byrne case (1979), a federal district court and a federal appeals court declared New Jersey's tax deductions for tuition unconstitutional on the basis of Nyquist. The courts decided that, as in Nyquist, the tax deductions were for arbitrary amounts independent of actual expenditures, and that the overwhelming majority of the potential beneficiaries were parents of children in church-related schools, wherefore the effect of the law would be a substantial advancement of religion.

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[22] Mueller v. Allen, 514 Fed. Sup. 998 (1981) affd. by Eighth Dist. Crt. of Appeals, Apr. 30, 1982, slip opinion.

[23] Everson v. Board of Education, 330 U.S. 1 (1947); Board of Education v. Allen, 392 U.S. 236 (1968); and Tilton v. Richardson, 403 U.S. 672 (1971).

[24] The Court also noted that the materials and equipment loaned could be used for inculcating religion.

In the *Norberg* case (1979 and 1980), which concerned Rhode Island's allowance of tax deductions for educational expenses including tuition, a federal district court and the First District Court of Appeals declared these educational tax deductions unconstitutional on the basis of *Nyquist*. The *Norberg* courts assumed and declared that the tax deductions for tuition were the principal tax deductions, and that the other tax deductions were unworthy of consideration as being "*de minimis*" and "mere window-dressing." As a result the *Norberg* courts concluded that the law had a "direct and immediate effect" of advancing religion, since the vast majority of tuition-paying parents who would benefit had children in church-related schools and the main benefit of the law would ultimately flow to the latter. The *Norberg* courts also insisted on considering the tax deductions as "charges upon the state" that were equivalent to grants.

In the more recent *Mueller v. Allen* case (1981 and 1982), however, both a federal district court and the First District Court of Appeals reached an opposite conclusion concerning similar, practically identical educational tax deductions allowed by a Minnesota law, and accepted the latter as constitutional. The *Mueller* courts recognized the Minnesota educational tax deductions as true tax deductions comparable to other such, including the tax exemptions for churches approved in *Walz* (1970). They classified any resultant advancement of religion as a "remote and incidental effect" (rather than a "direct and immediate effect"). And they refused to separate the tax deductions for tuition from other deductions for educational expenses, so that they were able to insist that the law had a broad class of both potential and actual beneficiaries, the overwhelming majority of whom were not parents of students in church-related schools. In the *Mueller* case reference was made to the contradictions and confusion that could arise from judging the constitutionality of a facially neutral law solely on the basis of statistics as to the proportion of types of beneficiaries actually benefiting therefrom at a given time in a given place. The courts held that both *de jure* and *de facto* effect of the law should be considered. They also noted that the Minnesota tax deductions did not "piggy-back" federal income taxes, and that they only benefited taxpayers when they allowed them to move to a lower income tax bracket. The solution of the direct conflict between the *Norberg* and *Mueller* decisions as well as other problems arising from the foregoing decisions and opinions must eventually be decided by the Supreme Court.

The tuition tax credit legislation proposed by the Reagan administration for elementary and secondary education would, as the *Mueller* courts said of the Minnesota educational tax credits, have only "a remote and incidental" effect rather than a direct and immediate effect of advancing religion since its primary and principal, as well as direct and immediate effect would be to promote better education and help parents of students in nongovernmental schools who pay their own tuition. The diverse and nationwide variety of parents so helped would be of various persuasions, both religious and secular, whose comparative percentages would vary from place to place and time to time. And the Congress passing such legislation would represent the nation as a whole, and be at least co-equal with (perhaps even superior to) the Supreme Court. The Packwood-Moynihan proposal for tuition tax credits for all levels of education would have the same general constitutional profile as the Reagan proposal and an even broader class of beneficiaries largely composed of students in primarily secular colleges and universities. Both forms of tuition tax credits could, accordingly, easily be accepted as constitutional by the Supreme Court.

Daniel D. McGarry

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BOOK REVIEW: Rockne McCarthy, Donald Oppewal, Walfred Peterson, and Gordon Spykman. *Society, State and Schools* (Grand Rapids, MI, 49503, Wm. B. Eerdmans, 255 Jefferson Ave., S.E., 1981), pp. x, 225; paper; $9.95.

This excellent in-depth study of the question of public subsidization of nongovernmental education is a real contribution. It is the careful product of a year of collaboration among four scholarly professors at the Calvin Institute of Calvin College, Grand Rapids, Michigan. The co-authors are Doctors Oppewal (education) and Spykman (religion) from Calvin College, McCarthy (history and philosophy) from Dordt College, and Peterson (political science) from Washington State University. The work argues convincingly for freedom-producing pluralism both in society in general and education in particular.

At the outset, the authors compare three contrasting theories of social organizations: Collectivism, Individualism, and Pluralism. *Collectivism*, according to the writers, holds that the state is a final reality whose interests should prevail over those of individuals. Collectivists hold that schools are a branch of the state, and education is a function of the state, to be controlled by the latter rather than by parents. Prominent proponents of Collectivism were idealists such as Plato (in his *Republic*), Hegel, and William Torrey Harris. Materialistic Marxists are also Collectivists. *Individualism*, on the contrary, holds that only individuals are realities, and that the state is an arbitrary voluntary creation of individuals, which should be completely determined by the terms of their free and voluntary, amendable "social contract." Individualism is represented by the thinking of William James (as well as by that of many "*laissez-faire*" economists and "liberals)." While Collectivism and Individualism represent opposite extrem both often tend to result in totalitarianism and governmental absolutism. This occurs in the case of Collectivism as a part of its basic doctrines, ir that of Individualism as an assumed means of promoting the interests of individuals to the maximum through an all-powerful state.

In between these two theories, *Pluralism* starts with the basic principle that man is fundamentally a free *social animal* with multiple needs and interests satisfied by various activities in various forms of association. Pluralism is upheld by many religious thinkers, including many Catholics and Calvinists. Such thinkers hold that man also has a supernatural and spiritual destiny and needs, as well as natural and secular ones. They also hold that the state is one of various societies, including the family and churches, each with limited rights and powers, that ideally cooperate in a divinely ordained harmony. According to them, political structure (the state) should not be allowed to swallow up or eclipse other social structures, such as families, churches, and schools. Examples of advocates of Pluralism are Peter L. Berger, Richard J. Neuhaus, J. N. Figgis, Howard Laski, F. W. Maitland, David Nicholls, Robert Mac Iver, John E. Coons, Thomas Aquinas, the Bishops of Vatican II, Abraham Kuyper, and John Calvin.

The Bible also incidentally seems to uphold a pluralistic view of society, especially as it relates to reciprocal rights and relations of church state, and family. Overlooked originally (to a great extent) in American law, Pluralism and the rights of associations are gradually coming to be recognized by the courts.

In Colonial America as well as Early Republican America, both public an private schools participated in public support. But from about the middle of the 19th century on, there has come to be a theory that there is a public religion that is Non-denominational Protestant or Deist or (eventually) Secular, that can be inculcated in the public schools and can be funded by the state, while private religions which are sectarian (and probably mistaken in differing particulars) cannot be funded by the state. Some of this theory traces to Thomas Jefferson, who conceived of "a wall of separation" between the state's fundable public religion (his religion) and nonfundable private or particular religions (i.e. traditional sectarian religions).

All schools inculcate some form of "religion"--a life commitment or orientation. Our public schools presently generally inculcate a religion of secular humanism, at least negatively, and often positively, as is evidenced by their omissions as well as by many of their textbooks. To be consistent and fair, and truly to respect both religion clauses of the First Amendment, the Supreme Court should allow public funding of private schools that inculcate particular religions, as well as funding of public schools which usually inculcate a religion of secularism or secular humanism.

In defense of the rights and interests of individuals, who advance most of their rights and interests through various forms of association, we should promote Pluralism in education by legislation and litigation, and possibly by Constitutional amendment. Legislation should provide for participation of private as well as public education in public funding by such means as tuition tax credits and/or state-provided tuition vouchers. Judicious participation in litigation will help our courts, particularly our Supreme Court, correct the current erroneous and inconsistent interpretation of the First Amendment, hostile to Pluralism and the rights of families, churches, and schools. When the time is ripe, a Constitutional amendment could be introduced upholding these rights.

Daniel D. McGarry

EDUCATIONAL FREEDOM

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EDUCATION VOUCHERS -- 1985

By Daniel D. McGarry*

Movements for education vouchers are currently enlivening the educational scene in some states, being seriously considered in others, and enkindling some hope for genuine and enduring revitalization of education. Such vouchers would allow children to attend any available approved elementary or secondary school of parental choice at public expense. The entitlement involved would be similar to that provided by the G.I. Bill at the close of World War II, which funded the education of veterans at schools or colleges of their choice with public subsidies. Vouchers would free parental and student choice in education, and in so doing they would promote educational competition, diversity, enterprise, and progress, as well as observe essential human liberties.

For two and one-half decades Citizens For Educational Freedom[1] have advocated the use of education vouchers as a way of promoting equity and excellence in education as well as respecting important human rights. Meanwhile increasing numbers of authorities have come to urge adoption of vouchers in order to improve education and ensure its continued health.

Despite the strenuous opposition of the powerful public school establishment, as well as certain misinformed "liberals," voucher movements have developed in certain states--notably in California, Michigan, Minnesota, and Colorado, while education voucher systems have also been proposed in other states such as Tennessee. An organization to promote vouchers nationally has also been formed.[2]

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*Professor Emeritus of Saint Louis University.

[1] Citizens For Educational Freedom were founded in St. Louis in 1979, and they soon became nationwide. They made important gains on behalf of educational freedom and equity in several states, such as New York, Pennsylvania, New Jersey, Rhode Island, Michigan, Minnesota, and Ohio, but most of these accomplishments were cancelled by adverse decisions of the U.S. Supreme court. Members of C.E.F. have, however, continued to fight for their cause in legislatures and in the courts. In the latter, they have recently been encouraged by favorable Supreme Court decisions (by narrow margins) in the Wolman (1977), Reagan (1978) and Mueller (1985) cases upholding certain legislation such as that allowing for educational tax deductions in Minnesota. Citizens For Educational Freedom were also an important factor in bringing about inclusion of nonpublic school children in the federal Elementary and Secondary Education Act, as well as the allowance of tax deductions for educational expenses in Minnesota.

[2] This is known as the Education Voucher Institute, and its office is at 22811 Greater Mack (#211), St. Clair Shores, MI 48080.

Our present issue of Educational Freedom explains the nature and advantages of education vouchers, various forms of voucher proposals, evolution of the voucher concept, and anticipated consequences of vouchers. It also describes the existing voucher systems in Vermont, the proposals for the use of vouchers for other forms of government support of education, as well as the constitutionality of education vouchers, answers to objections, and voucher proposals in other countries.

There are various forms of voucher proposals. Usually supported by conservatives, more thorough-going forms tend to extend vouchers across the board, absorb all public schools into a general voucher system eliminating public school systems as presently constituted, and restricting government regulation to a minimum absolutely necessary. An example of this form is that proposed by Milton Friedman as well as that advocated by Hickey and Canfield in California. More moderate forms--usually advocated by liberals--would preserve existing public schools and public school systems alongside voucher schools and would impose on voucher schools numerous government regulations, including provisions designed to insure racial and social integration and equality of opportunity. An example of such a system is that advocated by Professors Coons and Sugarman in California. While some voucher proposals would encompass all schools, private and public alike, some would be limited to public schools, as would be the voucher proposal of Governor Lamar Alexander in Tennessee. Similarly, instead of being made available to children on all economic levels, some voucher proposals would apply only to children of the less affluent, as is the case in Minnesota.[3]

Some Reasons for Growing Interest in Education Vouchers

There is growing interest in education vouchers for various reasons. Nevertheless it takes some time for any new proposal to obtain general public attention. A leading reason for growing interest in vouchers, however, is awakening public dissatisfaction with our system of public education. Numerous articles, books, radio and television programs, public and private discussions and reports, as well as a multiplication of alternative (nonpublic) schools and home education bear witness to this discontent. On every side, public education is being criticized as being too bureaucratic and inflexible, impersonal, theoretical, secularist and materialistic. It is also charged with being inefficient and ineffectual. It is coming to be considered a preserve of opiniated self-interest groups dedicated primarily to upholding their own ideas and interests, and intolerant of other forms of education, as well as unresponsive to parental wishes. As so often happens with monopolistic controllers of public finances and secondary wielders of political power, our organizations of public school teachers and administrators have become unresponsive to criticism, opposed to reform, and insensitive to familial concerns and community interests.

Our present system of exclusive public financing of government-operated and controlled public schools tends to engender these maladies, which are similar to those which develop in public hospitals and housing projects, as well as in many government offices when users of such have no alternative. Attendance at public schools which is fundamentally based on residence, also tends to be unintegrated and discriminatory inasmuch as residence is usually segregated according to income and race.

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[3] Further discussion and examples of variant forms of voucher proposals will be presented in a following issue of Educational Freedom. Other proposals for vouchers limited to public schools include those of Governors William J. Janklow in South Dakota and Rudy Perpich in Minnesota.

Recent opposition of public school organizations to even mild forms of government concern for the survival of private education, such as allowance of small tuition tax credits for educational expenditures, have shown how selfish, intolerant, and hostile to competition and alternative education as well as to parental interests public educators can be. This is especially true of public school officials and leaders of unions of public educators. Observers point out that such a narrow outlook is the inevitable result of a long-term, unreasonable monopoly of public resources by public education. If such can be the consequence of only a century and one-third of such a monopoly, what will be the outcome down the road if the monopoly continues for two or three or more centuries?

It is generally recognized that public education in our country has made valuable contributions in the past, especially at the outset when there was unrestricted immigration of diverse nationalities of varying speeches, cultures, and backgrounds. At that time a certain homogenization of diverse elements seemed to be highly desirable, and newly established public school education seemed to need special privileges and even exclusive public financing. But now that time is long past. While public education still continues to make important contributions, it is also increasingly clear that reforms are needed. Homogenization can go too far and proceed to the point where it seriously threatens to wipe out human liberties, stifle private enterprise, and impede educational progress. This is especially the case when the product is an uninspired and materialistic, amoral, entirely secularist, lowest-common-denominator form of homogeneity, due to restrictions imposed by pluralism and the Supreme Court. A virtual government monopoly of education is currently produced by the fact that public financing is entirely limited to the education of students who attend public schools. The result is that about 90% of our American children of school age currently attend public schools. This leads to deadening monopoly, inertia, intolerance of competition, deterioration, resistance to change, and failure to make the progress that would otherwise result from healthy rivalry and vigorous private enterprise. Little wonder that more and more of our citizens are coming to advocate reforms such as tuition tax credits and education vouchers!

Our present monopolistic system of exclusive public financing of governmentaly controlled and operated schools imposes a form of governmental dominance and totalitarianism in a field least suited for this intrusion. The mental area of human cognition, along with related attitudes and aspirations, should be immune, as far as possible, from government control. Yet we are coming to have a quasi-totalitarian, government monopoly in the field of education and mental formation. This is happening in our otherwise democratic state, which usually emphasizes personal liberty and generally protects freedom of thought and communication along with freedom of choice. That freedom of choice is possible in the field of education without loss of government subsidization is shown by the policies of other Western democracies, which include private school students in public financing.

A government monopoly of elementary and secondary education, such as that which is impending in this country and is already 90% accomplished, unduly restricts parental freedom of choice and family rights. It introduces one of the worst aspects of communism into the field of human thought and knowledge. The growing monopoly of our American elementary and secondary education by public schools also results in an increasing ascendance of secularism and materialism. For the teaching of traditional religion and religion-based morality are completely banned from our public schools. This exclusion of religious and moral instruction results from our cultural pluralism and the diversity of world-views among citizens, and is reinforced by several U.S. Supreme Court decisions. Our growing government control of education, wherein the day-to-day formation of most of our children is entirely secular, and devoid of traditional religion and morality, will result ultimately in the establishment of a national religion of Secularism or Secular Humanism, hostile to time-honored traditional religions and religion-based morality.

Exclusive public subsidization of governmentally operated schools, withholding all governmental support from alternative forms of parentally controlled education, may have been understandable when public education was in its tender infancy and foreign immigration at its unrestricted height. But this condition no longer exists and such a deprivation is no longer justifiable now that public education is heavily financed, well established, and on the verge of establishing a monopoly. Such a monopoly would eventually stifle all alternative forms of education. This is not in the best interest of children, whose well rounded effective education should be our primary concern. Neither is it in the best interest of the community, or that of families, or even that of public school teachers. Finally, it detracts from the ultimate quality of education in our country.

Earlier Over-Optimistic Educational Assumptions Disproven

Our present system of public education in the United States was born in the middle of the nineteenth century, at a time when our young country was being flooded with immigrants of diverse nationalities. An understandable concern of the dominant white, Anglo-Saxon, Protestant (WASP) majority in the country was to "assimilate" the immigrants into their culture and establish a certain amount of homogeneity adequate for cooperative community life and joint participation in democracy. A related concern was to establish an adequately funded public school system that would coexist alongside already functioning private educational agencies. There was also a certain contempt in the entrenched WASP majority for non-WASP nationalities and religions, and this was fanned by organizations and publications that were militantly nativistic and anti-Catholic.

The new public schools and their administrators and teachers were Protestant Christian in their outlook because of the predominantly Protestant Christian majority in most communities. They were able to work out a sort of least-common-denominator, interdenominational Protestant form of education in public schools that was temporarily acceptable to most Protestant parents. The main dissenters were Roman Catholic Christians, who were, at the time, a disadvantaged minority, neither well understood nor much respected by their "WASP" (white, Anglo-Saxon, Protestant) contemporaries. The latter were usually well established and more affluent. These circumstances resulted in a political decision to restrict public financing of education to public schools alone.

Meanwhile new winds were being felt in America as Western civilization, centered at the time in Europe, was in transition from the "Age of Reason" to the "Age of Science." Confidence in the power of unaided human reason as well as in the potentialities of the natural and social sciences was currently exuberant. Public educational leaders felt that the "science" of education had almost unlimited potentialities to reform man and society. The product of the new education would be an "ideal American" residing in an "American utopia." Public educators had, they felt, an unquestionable objective: to seek for the production of the "ideal American," and a sure means to achieve this: public education, and they themselves were to be the chosen agents of reform. Many educators felt that parents were insufficiently educated and too unenlightened to participate in the direction of the upbringing and educational progress of their children. In fact, parents often were regarded as obstacles. This same criticism was leveled at "old fashioned" and "conservative" church-related education, particularly that of the Roman Catholic denomination.

One application of this assumption was to exclude parents from making educational choices. Another was to deny parentally controlled private education and church-related schools any share in the public financing of universal education. This was accomplished by constitutional provisions in new states being admitted to the union and by constitutional amendments for older states such as the Blaine Amendment in New York State. Attempts were even made to compel all children to attend public schools by laws such as the Oregon School Law. The latter was, however, declared unconstitutional by the Supreme Court in the Pierce case in 1925.

As we approach the close of the twentieth century, much water has passed under the bridge of education and the winds are shifting. The educational picture is now much different. There can no longer be any genuine fear for the survival of American public education. The only valid present apprehension in this regard is for the survival of "voluntary" non-governmental education. The public school system has grown so huge and powerful and has such a monopoly of public funding that it is eating up its parent, private education, and is on the way to obtaining a complete monopoly of elementary and secondary education. Restrictive laws have reduced immigration to a trickle and this tiny minority is easily assimilated by natural processes. The majority of our parents today are both well educated and well informed and thus capable of taking an active and constructive part in the academic as well as the general education of their children.

Meanwhile experience has deflated many of the basic assumptions of earlier educational prophets. We have come to realize that a key problem in our increasingly socialistic society is not to impose uniformity but to allow for variations and preserve personal liberties as well as to accommodate individual differences. We recognize today that we should not have the objective of producing a stereotyped uniform ideal American citizen, since just what such is is debatable and a free and democratic society is pluralistic. Our society, like the Athenian democracy (and even, perhaps to a greater degree) encourages individual freedom and self-determination. In our garden we welcome a pleasing variety of flowers, rather than insist on a single strain. A truly democratic society is pluralistic and free rather than homogenous and frozen. Just as we permit and respect different views as to the ends and purposes of life, so we should allow and even encourage the different forms of education that serve it. We no longer assume that there is "only one way," or that "my way is right and yours wrong."

The old view that universal free education would solve most of our problems has also been disproven. We now realize that results depend on the content and methods of education. But what should be the content and what the methods? The old assumption that there could be a "science" of education with scientifically determined content and methods whose validity would be guaranteed is no longer tenable. Just as there are no absolute educational ends, so there are no absolute educational means. On both subjects, the old Latin saying has prevailed: "Quot capita, tot opiniones!" ("There are as many opinions as heads!") Regarding education, in short, a refreshing degree of uncertainty has come to prevail and it should be accompanied by a corresponding variety of forms of education.

Why Vouchers?

Amidst all this realistic and wholesome uncertainty, decisions concerning education still have to be made. But who should make these decisions? Should they be the same for all? Specifically, who should decide as to how a particular child should be educated? Should it be government officials, and if so, on what level of government--federal, state, or local? Should it be the educational bureaucracy, or perhaps individual teachers? Or should it be parents? Advocates of tuition vouchers maintain the parents would be "the best deciders."

It is safe to assume that there is general agreement that the paramount concern in educational decisions should be the best interests of the child. We should strive for the best possible education of the individual students being educated, with adequate safeguards, of course, for the welfare of society. In our country we do not conceive of the "state" or "society" as an abstract reality apart from the individuals who compose it. Hence the welfare of society depends on promoting the welfare--the best interests--of the individuals who compose it.

But the question still remains: Who is the "best decider" as to the paramount interests of the particular children being educated? Supporters of totalitarian Communism would maintain that the state--i.e., government--should decide. In practice this would mean the governmental bureaucracy. Proponents of Fascism, or government by the supposedly more enlightened, would give the same answer. Many educators maintain that the educational bureaucracy should make these decisions for all in our democratic society. But many strongly disagree. Is government with its educational bureaucracy really the best decider? And is there a single set answer for all? Advocates of greater freedom say "No."

Ideally, the "best deciders" in a democratic society should be the persons most concerned for the welfare and happiness of the child, who would also know best the nature, capabilities, and needs of the individual child. Preferably the "best deciders" should likewise be intimately and continuously involved in the educational process, as well as strongly affected by the alternate outcome. Hopefully the best deciders should also be responsive to some extent to the reactions and desires of the students themselves, thus permitting the latter to have an increasing input in decision-making.

If one accepts the foregoing guidelines, it is obvious that parents should generally be the best deciders relative to the education of their children. The U.S. Supreme Court intimated this principle in the Pierce (Oregon School) case (1925) when it declared: "The child is not the mere creature of the state: those who nurture him have the right, coupled with the high duty, to recognize and prepare him for additional obligations."[4]

Parents are also the best "monitors" as to the effectiveness of the educational process since they directly observe results of the process from day to day over long periods of time. While it is true that some parents may not make outstanding deciders, this is also true of many politicians, bureaucrats, pedagogical theorists, and practicing educators. The ill effects of any parental errors would be much more limited than those of governmental and educational bureaucrats since parental error would effect only one child or a few children, whereas governmental errors and oversights would bear on thousands, hundreds of thousands and even millions of children, as they have already done. According to education voucher plans, parents making decisions would also have the assistance of educators and governmental advisors in addition to governmental regulations and supervision.

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[4] 268 U.S. 510 (1925) at 534.

Most parents have a strong love for their children, whom they have begotten and cared for from conception. If this is not fully true of all parents, it is of most, and if it is not always fully true of both parents, it is almost always true of one of them. Powerful natural parental instincts which operate here are reinforced and refined by education, religion, and concern for public opinion, as well as parental pride and long-range parental interests.

Parents are most familiar with the character, abilities, and needs of their individual children. Parents are continually involved in the educational process and in attempting to mold the personality of their children and prepare them for adult life. Parents also immediately and intimately are affected by the outcome of the educational process. They are likewise in the best position to observe what education is actually doing for or to their children. They are with the latter not merely for an hour or two on school days for a semester or two, but day-in, day-out, throughout the entire year, for years and years. Besides living with their children in a close relationship, parents also typically live in their children. One of the main problems of current American education is its size--its "bigness"--whereby it has tended to assume features of "mass production," with remote and impersonal bureaucratic control. Education vouchers would bring education back "to earth" and restore needed elements of parental control and involvement. This would make education more immediate, personal, realistic, and effective.

Education vouchers would increase parental involvement in education of their children and thus help to insure pedagogical success. Parents and teachers would become more active and intimate cooperators in the educational process. Whatever the differences between tuition voucher plans, all agree on the advantages of greater parental involvement (from start to finish) in the educational process.

Education vouchers would help both teachers and parents, and would strengthen families as well as improve education in general (both public and private). They would promote intellectual freedom and speculation, and religion and morality, as well as contribute to the general welfare of society. Teachers would have a wider choice as to schools wherein they could teach without excessive financial penalization. Because of greater dependence on parental choice and student satisfaction, teachers will be encouraged to devise new methods and exert additional efforts. They would not merely be "marking time" to satisfy compulsory attendance, as is now often the case. The professional status of teachers would be raised by the voucher system, since they would, in a sense, be involved in a free mutual contract with parents, rather than being mere employees of school boards. In addition to becoming more involved with parents, teachers would become more intimately involved with their schools, and vice versa, since the welfare of both would be intertwined.

Parental authority would be enhanced and family solidarity increased by tuition vouchers. Children would become more dependent on their parents and would meanwhile better appreciate the latter's concern for their education. Schools would cooperate with and reinforce rather than compete with parents. Teachers would seek to bolster rather than to undermine values most cherished by parents and help to transmit them as treasured bequests to their children.

Vouchers would "open up the windows and let in fresh air and sunshine" for education. Vouchers would unlock the poentialities of freedom, competition, diversity, and private enterprise. At the same time they would admit enough government supervision and regulation to satisfy legitimate state interests and would protect children and parents while keeping governmental interference to a minimum. They would, for example, require reasonable assurance of an adequate development of essential knowledge and skills, v.g., in such subjects as reading, writing, mathematics, English, history and government. Government regulations would also establish safeguards for health and safety and they would preclude racial or economic segregation of students.

Various Education Voucher Proposals

Proposed systems of education vouchers differ in important respects. Some would apply vouchers across the board to all elementary and secondary education, both public and private, whereas some would allow for the coexistence of voucher systems and voucher schools both public and private with attendance based on vouchers alongside ordinary public schools. Some would reduce governmental supervision and regulation to an absolute minimum; while others would establish numerous governmental controls such as regulations to prevent racial and economic discrimination and segregation. Some would restrict vouchers to public schools, while others would include both public and private schools. Some would restrict vouchers to a certain class of students, such as the disadvantaged; while others would include all elementary and secondary school students. Some would also vary the amount of vouchers according to need, whether economic or instructional, while others would have voucher amounts be the same except for the handicapped.

Voucher systems currently proposed in various states exemplify some of these differences. Thus the Coons-Sugarman proposal in California would retain the present public school system alongside the new voucher system and would include numerous regulations designed to protect the poor and minorities. The Hickey-Canfield proposal in California, on the other hand, would eliminate the existing public schools system, make present public schools voucher schools alongside and like private voucher schools, and reduce government supervision to administering academic achievement tests as conditions for continued eligibility of schools. The Magyar-Chatfield proposal in California lies between the two foregoing proposals, but leans to the Hickey-Canfield proposal. The voucher proposal in Minnesota would restrict vouchers to more needy and disadvantaged students. The voucher proposal of Governor Lamar Alexander in Tennessee would include only public schools.

It remains to compare general features of contrasting tuition voucher plans proposed in California.[5]

The Coons-Sugarman Education Voucher Proposal In California

The education voucher proposal of Professors John E. Coons and Stephen D. Sugarman of the University of California Law School, known as the Family Choice Initiative would retain the existing public school system in California while introducing, alongside the latter, state-provided "scholarship vouchers." All students of school age in the state would be eligible for such vouchers, which would amount to 90% of the average cost of public education and would be usable at schools willing to be voucher scholarship schools, whether public or private. Such schools would be governed by current California regulations concerning private schools.

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[5] The details of various voucher proposals will be more fully presented in a forthcoming issue of Educational Freedom.

Public voucher scholarship schools would be independent of the existing system of public education in California. They could be established as autonomous educational institutions by public entities such as school districts and public colleges and universities. They would be forbidden to teach religion or a special philosophy of life. Private scholarship schools, also known as "family choice" schools, would be privately organized and operated like present-day private schools. They would be private schools which had agreed to accept tuition vouchers. They would be free to teach religion or a special philosophy of life. As a result, there would be in California four types of schools: ordinary public schools (as at present), public scholarship schools, private scholarship schools, and fully private schools. Private (voucher) scholarship schools would be private schools that elected to accept state-provided scholarships; fully private schools would be those which did not. All scholarships would be provided and their amount determined by the State Legislature, so that local school districts would not be involved.

This plan of statewide financing would be in harmony with the Serrano-Priest decision (1976), which held that spending for public education in California should not be a function of wealth other than that of the state as a whole.[6] Coons and Sugarman played a prominent part in bringing about this decision. According to the Coons-Sugarman proposal, the financing of schools by property taxes would be eliminated. The total cost of state funding of education, adjusted for total school-age population and changes in average personal income, could not be increased for six years. Ten years after full funding of the vouchers, the latter would be subject to reconsideration by the State Legislature. The voucher system would be established by a constitutional amendment introduced by popular initiative.

As a safeguard against use of the vouchers to implement segregation, racial or economic, schools accepting vouchers would be obliged to reserve 20% to 30% of their places for children of low-income parents and would be forbidden to inculcate racial superiority or exclude students on the basis of race. While schools would be permitted to charge tuitions higher than tuition vouchers, tuitions actually charged particular families could not be excessive as compared to family income. Thus children of less affluent parents attending a higher tuition school could only be charged a tuition proportionate to their family income.

Evidently regarding politics as a science of the possible and an art of compromise, Coons and Sugarman accommodate various interests. They allow the existing public school system and existing private schools that so decide to survive as they are at present for those who prefer them to be so. At the same time, they make available for all, vouchers applicable at schools (public or private) that will accept them and abide by minimal governmental regulations. The Coons-Sugarman proposal includes features that combat economic, racial, or residential segregation, at the same time that it facilitates voluntary integration and equality of opportunity, as well as freedom of choice. By retaining the existing public school system alongside the proposed new voucher system, Coons and Sugarman make possible the subsequent expansion (or contraction) of the one or the other as experience suggests or the public sees fit.

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[6] 18 Cal. 3rd 728; 557 P.ed. 929 (1976).

The Hickey-Canfield Voucher Proposal

The Hickey-Canfield voucher proposal, while agreeing with the Coons-Sugarman plan on fundamental points, such as government financing of voluntary alternative forms of education, use of tuition vouchers, and educational reform by means of a constitutional amendment introduced by popular initiative, also differs from the Coons-Sugarman model in important respects. Inventor Jack Hickey and college Professor Canfield would use tuition vouchers across the board for public financing of education and would eliminate the existing system of public education. They would substitute for the present state Department of Education a Department of Educational Performance which would authorize compensation for vouchers on the basis of tests administered to determine satisfactory student progress in basic subjects.

While broadening, to some extent, government financing of education, the Hickey-Canfield proposal would get the government out of the actual "business of education," i.e., of conducting schools and regulating educational procedures. Government would be concerned only with the educational product, not with the processes and methods, which it would leave up to free enterprise and private determination. As to content, government would only be concerned with certain essentials, leaving the rest to choice. Advocates stress "subsidiarity" and "accountability." Although government would continue to provide funds for education, it would no longer educate. Education itself would be left to private agencies and citizens. Aside from providing the finances to make education possible, governments would limit their role in education to administering tests to ascertain whether certain basic objectives of education were being achieved. These tests would be geared to ability as well as educational level, and 70% of their content would refer to basic and essential subjects, such as reading, writing, English, and mathematics. Vouchers would be redeemed only upon evidence of satisfactory accomplishment, though government could make anticipatory loans in advance. Actual redemption of vouchers or release from loan obligations would require evidence of satisfactory educational performance as shown by test-results. Compulsory attendance laws would be eliminated and government would cease regulating education directly, relying only upon the educational performance tests as conditions for the redemption of vouchers upon satisfactory achievement of educational objectives. Government would cease regulating education otherwise than indirectly through such performance tests.

As in the Coons-Sugarman proposal, so in the Hickey-Canfield plan, schools would be allowed to inculcate religion or a philosophy of life that was considered beneficial for children by their parents. As in the Coons-Sugarman proposal, local property taxes would be eliminated as means of financing education, which would be done statewide, using such means as sales and income taxes. A ceiling for the voucher amounts would be established.[7] Despite small increases (v.g., 10% or more) in the number of children whose education was being financed by the government, resulting from the inclusion of children attending private schools, it is estimated that the Hickey-Canfield plan would reduce state expenditures for education by about 20%, since the average per-student cost of public education in California in 1979 was about $3,000. Much of this saving would assertedly be accomplished by a great reduction of the "top-heavy" present educational bureaucracy, and the elimination of unnecessary intermediaries, as well as by the economies effected by operating on a smaller scale with more local control.

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[7] The ceiling for the Hickey-Canfield voucher was to have been $2,000 in 1979 dollars, adjusted for inflation. The Hickey-Canfield proposal has now been superceded by the somewhat more moderate Magyar-Chatfield proposal.

Even as the Coons-Sugarman plan, the Hickey-Canfield proposal has certain attractive features. Proponents maintain that it is simpler and more consistent, and that it has greater economy, accountability, freedom and flexibility, as well as gives more responsibility to parents and teachers. They point out that it would be simpler and more uniform (and thus more effective) because the vouchers would apply to all education financed by the state, and would not involve several categories of schools and differing amounts of money. It would be more economical because it would reduce public financing of students presently in the public school system by about 1/3 and total state expenditures for elementary and secondary education by about 1/5, even with the addition of private school students. Much of this saving would be effected by eliminating the present large educational bureaucracy and organizing education on smaller scales. The plan would probably insure a certain amount of efficiency and productivity in education by its educational performance tests, and would most likely bring about a mastery of certain basic skills and knowledge by most students. It is argued that greater freedom and flexibility would be produced by eliminating direct state provision and regulation of education. Finally, it is said that greater participation and responsibility by both parents and teachers would be necessary and would be operative in a total voucher system.

Comparison of the Coons-Sugarman and Hickey-Canfield Voucher Proposals

It is difficult to evaluate the relative merits of the Coons-Sugarman and Hickey-Canfield proposals since they represent somewhat different underlying philosophies and since both lack an adequate background of experience. The present writer can only make general comparisons.

Both voucher proposals agree on certain fundaments. Both seek to reform and improve education, and both would use vouchers as a means of doing this. Both would increase educational freedom and voluntarism, while reducing bureaucratic domination and regulation. Both would augment parental control and involvement and employ the free marketplace principles of competition and comparison to stimulate and improve education. But there are obvious differences. The Hickey-Canfield proposal is more radical and thorough-going; while the Coons-Sugarman proposal is more moderate and compromising (conciliatory).

Hickey and Canfield would get government out of the business of actual education, and they would eliminate any direct detailed government regulation of education. At the same time Hickey and Canfield would provide for government financing of all or practically all education through tuition vouchers. Coons and Sugarman, on the other hand, would retain the existing system of public education open to all, while adding for all the option of obtaining and using state vouchers for attendance at private or public voluntary ("scholarship") schools. They would also retain existing state regulations concerning public and private schools, applying the latter current regulations concerning private schools to voluntary state scholarship schools. At the same time they would favor restricting government regulation.

While both plans would restrict further expansion of proportionate government expenditures for education in California at least for a few years, adjusting limits to account for inflation, Coons and Sugarman would otherwise not change the existing value of per-pupil expenditures in real dollars, i.e., dollars adjusted for inflation, in public schools for six years, and would allow tuition vouchers for 90% of the present public school costs. Hickey and Canfield, on the other hand, would establish a $2,000 annual limit for tuition vouchers which would be the sole means used by the government to finance universal elementary and secondary education. (The $2,000 would be estimated in 1979 dollars.) Under both plans, as noted, limits would be adjusted for inflation.

A striking variation is the Hickey-Canfield attempt to introduce strict accountability regarding actual learning as a condition for state reimbursement for vouchers. This would be accomplished through state-administered educational performance tests, designed for various grade levels and adjusted for significant variations in age, ability, etc. These performance tests would involve certain problems. Would there not be great difficulty in establishing the exact amount of knowledge and degree of skills requisite on various levels of education, particularly as related to varying native abilities and rates of development, as well as differing backgrounds and environments, all in ever-changing times? Also, how could the performance tests be adapted to varying curricula, teaching programs, and pedagogical methods? Would not such tests tend to become restrictive norms resulting in greater government control of education? Might they not thus constrict the very freedoms voucher programs seek to extend? Might they not become regionalized and even nationalized as various states would find it difficult to construct their own tests? To be truly objective and useful guides, would the exams not have to remain constant in their essential elements from year to year? Or would they become arbitrary? Could they not cause teachers to adapt their programs to the tests rather than to higher and broader objectives? Would they not freeze flexibility and stifle creativity? Would they do great harm if seriously applied, or would they tend to become mere formalities? While it is true that there are today many forms of tests, such as the New York State Regents examinations, their full validity is open to question. Furthermore such tests are not presently absolute determinants as to whether or not a school will receive $2,000 or so a year (in 1979 dollars). Other controversial features of the Hickey-Canfield plan are its outright elimination of the existing system of California public education and its probable reduction of the current allowance of about $3,000 per public school pupil.

Other Voucher Proposals

The Hickey-Canfield education voucher proposal in California has presently been superceded by the Magyar-Chatfield proposal. The latter is being actively promoted by Professor Roger Magyar, currently working with the Serra Institute, and Realtor Leroy Chatfield. Their plan leans more to the Hickey-Canfield plan than to the Coons-Sugarman plan.

A voucher proposal currently supported by Representative John Brandl in Minnesota would restrict vouchers to the disadvantaged, allowing the latter to attend either public or private schools of parental choice.

Governor Lamar Alexander of Tennessee has proposed a voucher plan which would apply only to students in public schools.

Another voucher plan has been proposed by Hugh Fowler in Tennessee.

In the late 1970s a voucher proposal supported by Citizens For Educational Freedom and others in Michigan was rejected by voters.

Details of the foregoing plans will be considered and compared in a forthcoming issue of Educational Freedom entitled EDUCATION VOUCHERS II.

Conclusion

It is easy to criticize the current shortcomings of American education but difficult to propose effective remedies, and even more difficult to effect reforms in view of somewhat vested interests. But this is what such courageous, self-sacrificing leaders as Coons and Sugarman and Hickey and Canfield, as well as Magyar and Chatfield, have been trying to do in the face of formidable determined opposition.[9]

Meanwhile, the number of our citizens who would like to see education vouchers grows from day to day so that it evidently currently comprises over half the population. Supporters maintain that vouchers would revitalize education and that a voucher system would be a continuing force for educational health and progress. They also point out that personal, familial, and institutional freedoms would be greatly enhanced by such vouchers, while intellectual and religious liberty would be preserved and promoted. The danger of a monopolistic establishment of secularism and monolithic thought control by the state would be averted. Education would be unshackled and would be stimulated to improve, thus fulfilling the promise of a free democratic society.

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[9] Other courageous leaders of such movements include Rep. Hugh Fowler and Governor Richard Lamm in Colorado, and Representative John Brandl as well as C.E.F. leaders in Minnesota. Multiple voucher plans are being proposed in California, Minnesota, and Colorado. Plans limited to public schools are supported by Governors Lamar Alexander and Rudy Perpich in Tennessee and South Dakota.

ALTERNATIVE EDUCATION VOUCHER SYSTEMS

by

Denis P. Doyle*

There is no single voucher plan, because vouchers are simply an administrative device to accomplish some larger social policy objective. (Admittedly, "administrative devices" are not neutral in their effects, but they produce second-order effects; to understand them, it is necessary first to understand what it is they are supposed to accomplish.) The purpose of vouchers is to permit "choice." In the case of education the question is, choice for what end? For all voucher theorists, choice is important because it reinforces the liberty and dignity of the individual by empowering the individual to choose. In education, the voucher recipient, rather than the bureaucrat, would decide both what to study and where to study. The reason such a choice is either desirable or appropriate is that, as Coons and Sugarman assert, "society's indeterminacy as to the child's interest has permitted us to argue for decentralizing much authority to the family level."[1]

Education is necessarily value-centered; it serves the needs and interests of different individuals and different communities differently. The most stirring defense of this point of view is John Stuart Mill's.

The three broad categories into which modern voucher concepts fall are: (1) universal unregulated, (2) regulated compensatory, and (3) "power equalizing."

Universal Unregulated Vouchers

In Capitalism and Freedom, Nobel Laureate Milton Friedman argues that education is best left to the private sector because private education is better organized, more efficient, more economical, and more likely to be consistent with the preferences of consumers as distinct from the prejudices of providers.[2] Friedman's argument is as elegant as it is simple. Asserting that the private sector is better able to provide high quality education, he also recognizes that private individuals are not equally able to take advantage of private education. He further recognizes that there is an overriding public interest in an educated citizenry (the benefits of education do not accrue exclusively to the individual--society benefits as well). Accordingly, Friedman believes that the public sector should provide vouchers of minimal value to all parents of school-age children to permit them to purchase the education of their choice in the private market.

Friedman has no patience with bureaucratic control and does not support much in the way of rule or regulation of the private sector. Conceding that some irreducible minimum of regulation may be inescapable--health and safety requirements, for example--he nevertheless argues that most regulations are undesirable and counterproductive. Thus, he would permit schools to accept whomever they like and reject whomever they like, hire and fire as the spirit moves them, offer the curriculum they think best, select the textbooks they think most sensible, and charge whatever they like (or are able to) without public sector interference.

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[1] John Coons and Stephen Sugarman, Family Choice in Education (Berkeley, Cal.: University of California Press, 1982), p. 68.

[2] Milton Friedman, Capitalism and Freedom (Chicago: University of Chicago, 1962).

The power of the Friedman approach is its simplicity of administration and operation. Any child who could provide evidence of enrollment in a school that satisfied state compulsory attendance laws would be eligible for a state voucher. Vouchers might be mailed out annually as income tax forms are by the IRS, they might be mailed monthly as are social security checks, or they might be claimed at some distribution point. Alternatively, like social security checks, they might be mailed directly to an account identified by the recipient. School accounts could qualify, and the simplicity of this transaction would be quite efficient.

Computers and telecommunications revolutionize and simplify the administration of experimental financing methods. Very likely, vouchers would be a good deal simpler to administer than our current system of financing public schools. Administrative complexity,often alleged to be a barrier to implementation of social experiments, is not a barrier to providing vouchers as a means of school finance.

Regulated Compensatory Vouchers

The second voucher system in this typology is one developed by Christopher Jencks and his colleagues in the late 1960s, in the closing days of the Great Society.[3] Described as a "regulated compensatory voucher system," it self-consciously and deliberately distinguishes itself from the Friedman system by its acceptance of regulation as a positive good and its emphasis on the needs of the disadvantaged. The Jencks plan, for example, does not permit open enrollment; if a school is popular and over-subscribed, seats are assigned by lot. Insofar as poor children participate, they would be awarded a "compensatory" voucher in addition to the basic voucher that is issued to cover the cost of core education. Compensatory vouchers have two objectives: (1) to provide more resources for children in need, and (2) to make poor children more attractive to schools and teachers.

The importance of the compensatory voucher idea is that it rationalizes the incentive structure of the school. Normally, poor students are a "liability" to the school; to learn, they need extra human and financial resources. The typical teacher prefers the easier-to-educate, "good" students. Enter compensatory vouchers; for the first time, the difficult child, the child with special needs, brings extra resources with him or her. No longer a liability, he or she is literally an asset. The institutional calculus is transformed.

Finally, the Jencks plan does not permit participating schools to charge more than the value of the voucher. In short, Jencks has attempted to compensate for what he perceives to be the weaknesses of Friedman's laissez faire vouchers plan. Jencks shows a preference for a self-consciously egalitarian voucher model. To oversimplify the case only slightly, the Friedman approach is libertarian, the Jencks approach is egalitarian.[4]

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[3] Christopher Jencks et al., Education Vouchers...," in Teachers College Record (February, 1971).

[4] For a more complete discussion of this idea see, Denis P. Doyle, "The View from the Bridge," in Parents, Teachers and Children, San Francisco: The Institute for Contemporary Studies.

"Power-Equalizing" Vouchers

Not surprisingly, perhaps, the third major voucher variant is a Friedman-Jencks hybrid. Known as the "Coons-Sugarman" voucher plan, it attempts to maintain some of the libertarian emphasis of Friedman's while it retains some of Jencks's egalitarian emphasis.[5] The Coons-Sugarman model is neither so simple nor so easily explained and understood as either the Friedman or Jencks model. The most complex part of the plan is also its most interesting part, something Coons and Sugarman describe as "power equalizing," a concept they have appropriated from their school finance work.[6] It refers to a system in which individuals or schools might find ways to increase funding levels for their school without doing violence to Coons and Sugarman's notions of fairness. And fairness, it must be emphasized, is uppermost in their minds. Coons and Sugarman are concerned with the importance of money--the advantage that having it offers the well-to-do and the disadvantage its absence causes the poor. The Coons and Sugarman voucher plan permits the ambitious--not just the wealthy--to spend more.[7]

Vouchers and Private Schools

Implicit and explicit in each of these three major voucher systems is the idea that private schools would or could participate. This raises a very special issue, as much for reasons of custom and practice as law. The issue is religion. It is unavoidable, because more than 90 percent of the nation's private schools are religiously affiliated.[8] In this essay, I attempt to restrict myself to the administrative implications of including religious schools and do not deal with the legal and constitutional issues except as they have administrative consequences.

The recent decision in *Mueller v. Allen*, handed down by the U.S. Supreme Court in 1983, upheld the Minnesota system of allowing tax deductions for any educational expense, including tuition paid to denominational private schools. This decision may signal a significant shift in the Court and may presage a major shift in strategy on the part of private school aid supporters. That is, they may now be inclined to direct their energies and attention to the tax code rather than the education code.[9]

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[5] Coons and Sugarman, as above cited.

[6] It is noteworthy that Coons and Sugarman have done the most important conceptual work in the school finance field as well as some of the most important work in vouchers. Their early school finance contributions played an important role in influencing the thinking of the California Supreme Court in its *Serrano* decision (*Serrano v. Priest*). One of the remedies enumerated by the Court was a statewide voucher system.

[7] There are other voucher systems, but they are basically permutations of the three described here. The reader who cares to explore this terrain more completely should see the original Jencks book, *Education Vouchers*, which contains the most complete and comprehensive description and comparison of voucher systems available.

[8] For a reasonably complete description and analysis of the nation's private schools, see Denis P. Doyle, "A Din of Inequity? Private Schools Reconsidered," *Teachers College Record*, 82, no. 4:661-674.

Assuming that the general drift of court decisions moves as it has in the recent past, however, it is clear that a constitutionally valid voucher system would have to meet two tests: (1) it could neither advance nor inhibit religion; and (2) it could not become excessively entangled with religious institutions as it is implemented. The First Amendment contains both a prohibition against the establishment of religion and a guarantee of free exercise of religion. Thus, as the state may not adopt a state religion, or prefer one religion to another, or prefer religion to irreligion, it may not at the same time in any way inhibit the freedom of an individual to exercise his or her own religious beliefs.

In the case of schools, this has led to a number of important decisions. Pierce v. Society of Sisters, for example, was an Oregon case in which the Supreme Court ruled that a child has a right to attend private school, religious or secular.[10] In language reminiscent of Mill, the Court asserted:

> The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.[11]

The Court did not assert, however, that a child has a right to receive public funds to attend non-public schools. Indeed, the question of the day is whether or not a child may constitutionally accept such aid if it is offered. In this connection, it is worth noting that for many years in this country, such aid has been forthcoming.[12] To this day, nearly one-third of Vermont's school districts do not operate their own schools, and resident children are given vouchers to attend other schools.

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[9] For a more complete discussion of the differencesbetween education vouchers and tuition tax credits, see Denis P. Doyle, "Private Interests and the Public Good: Tuition Tax Credits and Education Vouchers," College Board Review, no.130 (Winter 1983-84), pp. 6-11.

[10] Pierce v. Society of Sisters, U.S. Supreme Court, 1926.

[11] Ibid.

[12] Public aid for private schools was a common practice in the early 19th century. The most widely known program wasthe Lowell Plan, which provided public funds for what were euphemistically described as "Irish Schools." The practice was discontinued by state legislatures, as Protestant domination became more complete and anti-Catholic sentiment more fully developed.

A serious attempt to make such aid unconstitutional was launched by Speaker of the House James J. Blaine, a confidant of President Grant, who hoped to outlaw--by constitutional amendment--aid to religious schools. The Blaine Amendment failed at the federal level, but many states adopted Blaine Amendments. The issue is important because there was a presumption of constitutionality for such aid until the late 1940s when the Supreme Court ruled against such aid schemes.

If religious schools cannot be reasonably excluded from a theoretical discussion of vouchers, how might they be included as an administrative matter? Because of the complexity and ambiguity of the law, it is extremely difficult to design the administrative means to include them. Consider this: religious school tuitions are uniformly lower than public school costs. A voucher of equal value for all children would provide more money for religious schools than they currently propose to collect from their students. The windfall would be subtantial, and even supporters of vouchers would be perplexed.

Alternatively, the voucher might be pegged to existing tuition, as long as it was less than the amount of the public school voucher. Religious schools, if they had their wits about them, would simply raise tuition to capture an amount equal to the public school voucher. This too poses "windfall" problems.

Conceptually, the solution might be that any voucher redeemed by any religiously affiliated school should be worth less than the voucher made available for children who attend public school. The reason is to develop the arbitrary but defensible position that public monies are not being used to support religion. The alternative is ornate pedagogical and financial bookkeeping by the religious school to demonstrate that the money received is used purely for secular purposes. This approach, however, raises the specter of "excessive entanglement" as laid down by the Burger Court. Simply put, the kind of bookkeeping, auditing, and verificiation procedures necessary to display religious and secular activities separately would become so complex that the state would be intruding on the church's domain. A failure to sort out religious and secular activities, on the other hand, would mean unconstitutional support of religion. To illuminate the matter, imagine that a school offers a course entitled "The Bible as Literature." Many public high schools do this today. Suppose a religious school used the same course description. How would the state accept it?

To escape this dilemma, then, the legislature might decree that vouchers for religious schools be proportionally less than those for secular schools--20 percent less, for example--to demonstrate that the legislature did not intend that the voucher be used to recover the costs of religious education. This is precisely what is done in most other industrialized democracies (though not for that reason). That is, public funds for private schooling are the rule in Canada, Australia, Denmark, Holland, France, and the United Kingdom, but full reimbursement is usually not provided. The families make up the difference between the public voucher and the private school tuition. Only in America--and Eastern block countries--is aid to religious schools prohibited.

Second, the legislature, in both its enabling statute and in its subsequent implementing statutes, must make it clear that the purpose of vouchers is to benefit the child, not the school. This fine point is both legally and pedagogically important because it establishes the primacy of the intended beneficiary. And it will be upon the slender reed of "child benefit" theory that vouchers will lean. Just as we permit public monies to be spent for babies to be born in Catholic hospitals, welfare recipients to be treated in Jewish hopitals, (former) social

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As most legal scholars are quick to admit, one of the most enduring practices of the Court is to reverse itself. Thus the recent Mueller v. Allen decision, finding Minnesota's system of tax deductions for education legal, may set the state for a new round of Court interpretations.

security beneficiaries to use public burial benefits in Baptist cemeteries, so too will the question of public aid to families who enroll their children in private schools eventually be accepted.

Unfortunately, there is no ready administrative solution to the religious school dilemma. From an administrative standpoint, the most obvious solution is to permit religious schools to act as the voucher bookkeeper and banker, collecting fixed-value vouchers and redeeming them from the state. As I have suggested, however, this is not likely to survive judicial scrutiny with today's Court. But the alternative, the issuance of vouchers directly to all claimants who are eligible, with no intervening religious school intermediary, leaves lower income children in the lurch.

Highly mobile, low-income youth, many of whom are minority youngsters, are precisely the population that is least likely to seek it out. They would be least likely to know about the existence of vouchers, least able to know how to secure and redeem them, and least likely to make effective use of alternatives within the system. The expedient needed to help them--let the school of attendance initiate and manage the whole voucher process--is the one administrative arrangement that the Court is likely to find excessively "entangling."

The difficulty of the present situation is absurd. The government, if it so chooses, could give every child in the nation a cash payment in any amount the Congress appropriated. it might be five, five hundred, or five thousand dollars. Indeed, cash benefits for children--family allowances--are the rule in every developed country, totalitarian or free. Such an allowance, so long as it were not earmarked for education, would withstand scrutiny in the U.S. As a cash grant to be used for any purpose, from drink to transportation, it would pass Court muster; similarly, if it were dedicated for food, housing, or health care, it would pass Court muster, but not if it were for education.

It is certainly possible that at some point the U.S. Supreme Court will hand down a decision that will put U.S. practice on a par with that of every other developed democracy in the world. That is, it will permit, without equivocation, public monies to be spent on behalf of children in private schools, secular and denominational. But precisely when such a decision will be handed down is unknown, even though a number of revisionist legal historians are agreed that the current interpretation of the Court is inconsistent with the intentions of the Founding Fathers and makes little sense as public policy.[13]

All-Public Vouchers

In addition to the three major categories of voucher systems, another variant is an all-public voucher model, one in which private schools would not participate at all.[14]

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[13] The United States is the only industrialized democracy that does not have a well-developed system of public aid to children who attend private school. For a more complete description, see Denis P. Doyle and Bruce Cooper, entry in the International Encyclopedia of Education, and Denis P. Doyle, "Family Choice in Education: The Case of Denmark, Holland, and Australia," unpublished paper, Washington, D.C.: American Enterprise Institute. (Prepared under the terms of a contract with the National Institute of Education.)

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[14] When the Serrano decision was handed down, the Court was moved to note possible remedies to demonstrate to the legislature and people of California that a solution was within reach. One alternative mentioned was vouchers.

THE STORY OF EDUCATION VOUCHERS*

By John McClaughry**

Parents have traditionally had the option, of course, of sending their children to private schools. This option was threatened in Oregon early in this century when the state legislature passed a law requiring attendance at government-operated schools. Fortunately, that law was struck down by the U.S. Supreme Court in 1925. Justice James McReynolds, speaking for a unanimous Court in *Pierce v. Society of Sisters*, declared that "the fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."

The *Pierce* case ended the legal threat to the existence of private schools, but parents who desired private education for their children have still faced the problem of cost. There is no exemption or rebate from the various taxes used to support public education. And thus nonpublic education has been the province either of the affluent, who can afford to pay both bills, or of parents whose church--notably the Roman Catholic and Lutheran--has managed to offer parochial schooling at less than its true cost.

The double burden is not insignificant. The Census Bureau figures that total expenditures for elementary and secondary schools in the 1980-1981 school year had to be funded by $444 in taxes per man, woman, and child in the United States. So a couple with two children was paying $1,776 in taxes to support the public school system that year, regardless of whether their children were actually attending government schools. If a family chose to send their children to private schools, they would pay, in addition, around $400 a year for church-affiliated elementary schools and $1,500 for other private elementary schools; private high schools cost even more.

In the late 1940s, the hierarchy of the Catholic church made a serious push in Congress for government aid to parochial schools, triggering a spirited church-state controversy that ended in the proposal's defeat. Over the next 20 years, however, a new proposal emerged from three quite different quarters. Called the "tuition voucher," it provided for government grants directly to parents, who could then use the proceeds to purchase education for their children from the school of their choice, whether public or private.

An early and eloquent advocate of tuition vouchers was free-market economist Milton Friedman. In 1962, in his influential *Capitalism and Freedom*, Friedman stood the time-honored argument for public education on its head. Do public schools produce a healthy mix of rich and poor, black and white, etc? Perhaps in the days of the small town with only one school, but not with the rise of populous urban and suburban areas that are economically and racially stratified.

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*From *Reason* (January 1984), pp. 2-4.

**John McClaughry, formerly a senior policy advisor in the Reagan White House, went home to Vermont in 1982, where he lives at Kirby and runs the Institute for Liberty and Community.

How could a system widely regarded as incompetent, overcostly, and perhaps unjust be most improved? Some people favor an end to all state involvement in education but that is "outside the range of political feasibility today," Friedman wrote in a 1973 New York Times Magazine article. In an essay published in 1955, however, Friedman first wrote of vouchers, saying that they would "give competition and free enterprise greater scope" and "pave the way for the gradual replacement of public schools by private schools."

For most Americans this was a startling new idea, but Friedman's proposal was close to the system already in place in some Vermont districts. He would have local school boards provide parents of every school-age child a voucher for an amount equal to the average cost of educating a child in the local government schools. The parents would "be free to spend the voucher and any additional sum they themselves provided on purchasing educational services from an 'approved' institution of their choice," Friedman explained a few years later in Capitalism and Freedom. "The role of government would then be limited to insuring that the schools met certain minimum standards, such as the inclusion of a minimum common content in their programs."

Friedman emphasizes that parents should be able to use their vouchers in both private and government schools, whether in the school district or not, if the schools are willing to accept the children. This, he argues, would give parents real freedom of choice, encourage healthy competition among schools, and inject a market standard for teachers' salaries.

Nothing came of Friedman's proposal at the time, but others began to think along the same lines. Christopher Jencks, a liberal professor of education at Harvard University (now at Northwestern University), advocated a voucher system as early as 1966. In 1970 he argued that vouchers could meliorate the plight of black children in underfunded and ineffective ghetto schools. Since despite a decade of civil rights agitation and progress, it did not appear that black schools in white dominated cities would ever be brought up to the level of the better white schools, Jencks favored vouchers to allow blacks to attend the white schools instead of the schools nearest their homes.

Meanwhile, a few Catholic educators were warming up to the voucher idea. Unlike the earlier proposal to divert tax monies directly to parochial schools, the voucher plan ostensibly subsidized parents, just as the post-World War II GI Bill had subsidized students. It would then be immaterial whether the parents cashed their vouchers with parochial schools or nonsectarian private schools or public schools. Inasmuch as the earlier GI Bill has stimulated a wave of trade schools created expressly to relieve veterans of their GI Bill dollars, this contention was somewhat transparent, but the movement still grew.

During this period, however, the opposition was far from asleep. Advocates of public schools saw that a movement toward vouchers would threaten their effective government monopoly over education. Local school boards and superintendents didn't like the proposal. Teachers unions particularly opposed the idea, it being easier to organize a relatively small number of large public-school systems than a large number of private schools. In addition, as Friedman had argued, the teachers recognized that a real marketplace for education would mean competitive pressure to hold down their salaries. So the National Education Association and the American Federation of Teachers began to allocate substantial resources to heading off the voucher scheme.

Indeed, vouchers probably have no more passionate enemy than Albert Shanker, president of the American Federation of Teachers. For years, Shanker has written a column published as a paid advertisement to the New York Times, and several have been devoted to lambasting vouchers.

In 1971, Shanker wrote, "The greater the free choice granted by a voucher plan, the more will the educational interests of poor, black and difficult children suffer." (Never mind that "poor, black and difficult children" under the current system are ordinarily the ones with the least possibility of affording private alternatives to inferior government schools.)

"Our public schools. . . are designed to keep our society together," he opined in 1979. "Vouchers are designed to use tax money to pull our society apart." (Never mind that the all-important purpose of schools is educational, not social, and that in this purpose they have by wide agreement failed miserably.)

And in a 1980 column: "There would be competition among schools in much the same way as there is now competition among toothpaste companies, auto manufacturers and department stores. Some enterprising schools might offer gifts to newly enrolling students in much the same way that savings banks offer such gifts to new depositors. Or . . . students might be offered rewards for enrolling their friends!" (Never mind that precisely such competition has resulted in largely satisfied toothpaste, auto, and department store customers.)

As in the beginning with free-marketeer Milton Friedman and liberal Christopher Jencks, support for vouchers over the years has come from across the political spectrum. On the right, William F. Buckley argued for vouchers in his book, Four Reforms; sociologist Edward Banfield endorsed them; and in the past, the Young Americans for Freedom has made vouchers a high priority.

On the left, liberal and radical advocates of education reform such as John Holt, Nat Hentoff, and Jonathan Kozol--and, less enthusiastically, politicians like Sen. Daniel Patrick Moynihan (D-N.Y.)--have come out in favor of vouchers.

Nat Hentoff, columnist for the Village Voice and the Progressive, is typical. In a 1972 magazine article, he wrote about choosing schools for his own children. "I did visit our local public school," he recalled. "The children there were being treated like automobile parts on an assembly line. So my four children are in four different private schools, because each learns in a different way."

He continued, "If I were not able to afford those four tuitions, my children would be compressed into the single mold the public school chooses for all children, and at least two of them might well have dropped out by now. . . . Why not allow for some real democratic pluralism in public education by ending that monopoly through making public independent education also possible? Consider the range of choice that would then be available to parents now restricted to the monopoly system."

Hentoff recently told Reason that he still supports vouchers if they are given to schools that do not discriminate on grounds of race, sex, etc., and if they are not given to church-related schools.

Politicians have generally been skittish about the issue of vouchers. Few doubt that it has a lot to do with the political pull of the two big teachers' unions, the National Education Association and the American Federation of Teachers.

Vouchers found a desultory champion in Ronald Reagan. While governor of California, Reagan called for vouchers in his 1972 "state of the state" message. Voucher legislation was introduced, but disappointed supporters in the legislature complained to the *Los Angeles Times* that Reagan "gave the measure little support," and it died in committee.

Last spring, the Reagan administration proposed giving local school districts the option of converting their federally funded Title 1 program (billed as supplemental education services for educationally disadvantaged children) to a voucher system. A bill was drafted by the administration and sponsored by Rep. John Erlenborn (R-Ill.), but history may be repeating itself. After a single day of House subcommittee hearings, the legislation faded away, and the administration has reportedly done little to promote it.

There is one state government where vouchers may be getting a fair hearing. Rep. John Brandl (D) has introduced a bill in the Minnesota legislature to provide vouchers worth $1,475 per pupil for low-income families. The vouchers would be good at any school. Minnesota's Democratic governor, Rudy Perpich, is reportedly "committed to the market-based system" in education but has not yet endorsed the legislation. Minnesota has already instituted a tax deduction for education expenses, and the measure survived a legal challenge on church-state grounds when the Supreme Court recently upheld its constitutionality.

Elsewhere, voucher advocates who have not met with success in state legislatures have turned in some instances to the ballot referendum. The first major campaign of this sort was in 1978 in Michigan, which lost by 59-41 percent.

Perhaps the most ambitious campaign came in California two years later. John Coons and Stephen Sugarman, two liberal Berkeley law professors, drafted a ballot initiative that would have set up a two-part voucher--a base amount allocated for all students no matter what their family income and a supplementary amount proportional to their family income.

Coons and Sugarman's "Family Choice Initiative," as it was called, was hotly debated in late 1979 and early 1980. As could have been predicted, the state's educational establishment was bitterly opposed. Wilson Riles, then the state superintendent of public instruction, stormed, "The idea is crazy. . . . I see chaos [if it passes]." In the face of this opposition, the initiative was unable to gather sufficient signatures for ballot status.

An interesting coalition of liberal and conservative Californians believe the time may now be ripe for another attempt at the ballot box. Roger Magyar, a Republican Party activist and state official during Reagan's administration in Sacramento, and Leroy Chatfield, a former United Farm Workers organizer and the manager of Jerry Brown's 1976 presidential campaign, have put together an organization called Parents Choose Quality Education. Their voucher plan won the endorsement of Milton Friedman but they failed to win sufficient signatures for placement on the June '84 primary ballot.

There has been a dramatic increase in popular support for vouchers in the last few years. Indeed, 1983 was the first year in which a majority of Americans in a national survey expressed support for education vouchers. A Gallup Poll conducted last June indicated that 51 percent of Americans would like to see a voucher system adopted in this country; 38 percent would not, and 11 percent had no opinion. The favorable responses were up from 43 percent in 1981 and 38 percent in 1971.

Despite strong support among Catholics for vouchers (63 percent for, 29 percent against, 8 percent no opinion)--not to mention the fact that some 3 million youngsters are attending Catholic schools in 1983-84--the US Catholic Conference has never taken a public stand for vouchers. Individual priests and bishops have supported the idea, but they have no solid institutional backing.

Roger Magyar told Reason that in California, church officials are apprehensive that a voucher system might exclude parochial schools, either from the beginning or later at the behest of a court ruling. Meanwhile, the American Civil Liberties Union is against vouchers for the opposite reason: it's worried that a voucher system would include parochial schools.

Clearly, popular support for vouchers in this country has survived and prospered without nurturing by the political establishment. One can only conclude that parents' alienation from the current state monopoly in education is very strong indeed. So while economists propose and teachers unions dispose, the mass of parents out there may well come to consider education vouchers as natural as generations of small-town Vermonters have found them.

A CASE FOR CHOICE[1]

By John E. Coons and Stephen D. Sugarman

Introduction

In arguing for choice in education our aims are two. First, education should serve the best interest of the individual child. Second, it should support community in its many aspects.

Power over the education of the individual child is currently divided among six forces. There are government institutions; teachers and other school personnel; families of public school pupils; private school families; lobbying professional groups; and a miscellany composed of taxpayers, nonparents, and others we can call the "rest of us." The same individual may appear in a number of these roles.

Government (principally state government), within the limits of state and federal constitutions, creates and empowers school districts. It ordains tax structures that support them and the general rules by which their operations are governed. Districts set the bulk of curriculum policy, establish enrollment rules that determine which school the child attends, and hire the teachers who are assigned there. These processes of decision are abstract and rational. Government does not know individual children.

School personnel, especially teachers, have discretion within broad curricular constraints to affect the child's experience, since the children who are assigned to them are virtually their captive audience for several hours each day. The relation is sometimes fairly personalized, though a class of twenty-five is too large for close involvement of the teacher with more than a few students.

Public school families typically have little influence on their child's formal education. Sophisticated parents with time and interest are a partial exception, but their options are usually limited to whatever variety is available within the assigned school or, at most, the school district. In some cases families discover what they want in other geographic areas and make the sacrifice of moving their residence to obtain it.

Under our national constitution families with money cannot be forced into public schools.[2] Thus those selecting private schools--the well-to-do and those with private subsidies (e.g., parochial school families)--determine more of the basic character of their own children's education.

Professional and commercial organizations affect the individual child by inducing government to employ their members to do things to children that are said to good for them or society. Thus, construction companies persuade legislatures to require schools to be rebuilt for the purpose of protecting children from earthquakes. Teachers unions obtain laws which limit class size to thirty, and other laws which exclude teachers who lack particular academic credentials.

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[1] From Parents, Teachers and Children: Prospects for Choice in American Education, ed. James S. Coleman, John E. Coons, et al. (San Francisco: Institute for Contemporary Studies, 1977), pp. 129-147.

[2] See Pierce v. Society of Sisters, 268 U.S. 510 (1925).

The "rest of us" vote on taxes and occasionally are aroused by the alarums of special interest groups. The politics of education, however, are dominated by the professionals. This is largely because the class of persons which is the target of education--children--is incapable of representing itself politically. Nor can parents represent children for two reasons. First, individual children's needs and interests are very different from one another. Second, even among those with similar interests it is unlikely that individual families will spend precious time and funds for lobbying. Political scientists and economists call this the "free rider" problem (Olson 1965; Buchanan and Tullock 1962). If others lobby, one does not need to; if others don't, one's own contribution is inconsequential. Under the law, parents cannot coerce the participation of others. Hence they find private uses for their extra money, and the political process is dominated by those organized interests who wish to sell services and in whose interest it is that children remain in need of such services.

Imagine now that this pattern of power over the individual child were altered by providing for each child a full state scholarship plus admission and transport to the school of the family's choice--public or private. There would be several broad effects. School assignments would cease to be orders issued to abstract classes of persons of certain ages and location. They would become personalized decisions about Freddie and Julia, tailored choices that now could be made by the family without having to change its residence. The power of local authorities to command an audience would terminate; they would, however, retain their right to advise families, to run schools, and to teach those who chose their services.

Choice and the Best Interest of the Child

Given the child's interest as our primary concern, and given great differences in the needs and interests of children, we will further assume in this section that the function of society is to choose and empower someone who will make school assignments for the individual child. We suggest three qualities in the ideal chooser. First, he would incorporate the child's own voice in the process; he would thus stand as proxy for the child's own perception of his needs and interests. Second, the ideal chooser would care for the child in the special sense that the child's interest came ahead of his own. Third, the chooser's welfare would be linked as closely as possible to that of the child; he would be responsible for unwise choices in the full sense that they affect the chooser himself adversely. These qualities of voice, caring and responsibility can be summarized as effective knowledge. How shall we grade the family on this basic standard?

Voice can count within the family in two interrelated ways. First, the child may achieve his own choice. The family normally is a regime flexible enough to give his growing competence increasing scope while yet providing basic protection; the federally sponsored "voucher" experiment in Alum Rock has shown how often the child himself effectively makes the school selection. Second, the family environment encourages the confidentiality and privacy that can be crucial to a child's willingness to reveal his feelings. Moreover, since the parent-child unit is small, enduring, and repetitious, the child's opinions are communicated through nonverbal behavior; the intimacy of the family fosters an effective private language.

Caring is the family function par excellence both in myth and reality; and the reality is importantly enhanced by modern contraceptive culture (Coons 1976b). Adults now must choose to have children, and they must do so in spite of the economic and personal penalty exacted of parents in modern life. Such self-imposed burdens seem to us a convincing measure of devotion.

Responsibility is a primary characteristic of the family, because its happiness is a function of the child's own. The relation imposes the pains of the child vicariously and even directly upon the group, and it will continue to do so throughout life. It is in the objective self-interest of the adults in the family to help the child achieve satisfaction and autonomy.

How does the present regime in public education compare for effective knowledge of the individual child? First, the basic system of matching the child to his school experience--neighborhood assignment--is almost wholly abstract,[3] school selection for the child is made by government in total ignorance of the child's wishes or special qualities (unless he is so incapacitated as to be outside the regular system). At the school level, students and teachers are generally assigned to one another in an impersonal process. Individualization that occasionally does occur in teacher-student pairing is necessarily limited--there are only so many third-grade or geometry teachers--and below high school, the child's voice is rarely involved.

Once the child is assigned to a classroom he may achieve some voice. The teacher's ability to hear him is a function of the hours they spend together, the number of students in the class, the child's aggressiveness, and character of his classmates. When heard, the child's desires can receive but limited accommodation. And in reality no child can expect to be heard very clearly unless he is willing to become a deviant, in which case a counselor may spend several hours with him. Were each child to receive substantial time from a psychiatrist, the advantage would be plausible; but experience and social science confirm how little the professional counselor is able to learn and to achieve in the average case beyond relabeling the child. In any event the counselor has few alternative environments to which the child may be sent.[4]

As for caring,most teachers surely do, but their caring by its nature must remain relatively cool and abstract. The teacher who becomes very deeply involved with even one child is likely to be regarded more as neurotic than professional. To the extent that he does so, he is plainly substituting for the parent. It is not a model role for a system of education. This is not a criticism, nor would the degree of affective care by teachers increase under a system of choice. The point is that under the present system, for the child of the non-rich family, there is no caring adult who is able to exercise authority over assignments. In our view it is a proper function of the state to provide a competent professional backstop for the occasional child whose parents do not care; but it is not proper to screen out and frustrate the natural care of most parents.

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[3] See the symposium,"The Courts, Social Science, and School Desegregation," in Journal of Law and Contemporary Problems 39 (1975):1-431.

[4] A classic sutdy of the limitations and biases of counseling is Cicourel and Kitsuse (1963).

How fares the present system as a focus of responsibility for the individual child's welfare? We cannot here detail the reward system for public educational agents, but two points are plain. First, the systems for purging the classroom of incompetents is of little consequence; virtually no tenured teachers are seriously threatened so long as they show up for work and keep their hands off the children. Second, under the present structure the teacher has no strong natural link of self-interest with the child. He may regret the academic or personal failure of Freddie, but he neither must live with nor even encounter him after June. Freddie is a crisis to be passed, not a cross to be borne--just another forgettable kid. And that is as it should be. Teaching is not parenthood and should not be held accountable in the same manner.

It has been convenient to this point to inquire simply whether bureaucracy or the family is by itself the superior decision-maker. Now we should see that this mistakes the real question, for it suggests too broad a conflict of parents and professionals. In a system emphasizing family choice, the fact is that professionals would be likely to play an important role. They have valuable information not available to many parents, and families would come to them for advice. If anything, this should make the professionals' involvement in assignments even more active; since families could reject their advice, professionals would have to depend upon persuasion. The relation would become that of lawyer to client or architect to owner. For the first time public school teaching might become a true profession because its clientele at last was free. That very freedom could well improve the market for professional service. Once the system of expert advice became accountable, families could begin to trust it. It would now be strongly to the family's interest to learn how best to use the available experts--and to use them.

Note that by having the final word the empowered family need no longer fear professional oversight or nonfeasance. Today no one plays this role of backstop, and society knows the consequence both from sad experience and social science.[5] The child once labeled and assigned by bureaucracy is rarely reassigned, however much he needs it. What family choice would give him is an amateur champion--a change agent--to ensure that he is not forgotten by the system. A family which found the professional unresponsive to inquiry could transfer the unhappy child themselves. Such an incentive could in turn have a vitalizing effect on the expert; choice could bring the teaching profession the dignity that has so long eluded it.

Getting the Question Straight

Some would argue that we miss the point. We have compared the efficacy of two regimes for achieving the child's interest as if that interest were currently undefined. Some would argue, however, that it has already been defined by consensus. This criticism holds good for a certain minimum content of education. However, it fails as a general proposition, for above this narrow minimum the child's interest is a private affair, whether we like it or not.

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[5] Hobsen v. Hansen, 327 F.supp. 844 (D.D.C. 1971); and see Kirp (1973).

To have a "public" meaning about the best interest of the individual child there must be a consensus supporting a defined substantive objective embodying the good for children; the consensus should also encompass a specific means to achieve the objective; and there should be a reasonable basis for believing that the means will indeed achieve those ends. At present there are elements of the child's interest (not restricted to education) which are in this sense "public." A consensus, for example, supports positive levels of nutrition and educational curriculum; and that consensus finds negative expression in proscriptions such as curfews and prohibitions upon dangerous labor. in short, there is social agreement concerning a reasonably specific minimum substantive good for children.

However, as in other aspects of his life, the typical child's formal education includes far more than the minimum. Beyond the minimum, it is individuals and subgroups--not the public--whose values and means express the child's welfare. There is no public consensus that the child should become aggressive, a Muslim, a patriot, or a pacifist; these are as much indissensus as the decision to teach phonics and employ ability grouping. In this immense area beyond consensus, the reality is that government as such has no views (Wolff 1968; Unger 1975; Stewart 1975, p. 1667); the question for government in these circumstances is not the child's interest at all, but rather whom it will authorize to define that interest in his own private terms. Within this domain of dissensus, the state may choose to enforce the decisions of welfare workers, parents, teachers, or family court judges, but in every case these are private judgments that it sanctions. This is in itself no criticism; someone will decide for children and, where it lacks consensus, the most democratic government has no option but to legitimate some micro-sovereignty, allowing it to set the values and means for children. This is, of course, what it has done for education; the school bureaucracy stands, to this extent, not as an implementer of what Americans agree is best, but as sovereign over the interest of the non-rich.

But what is the rationale for society's imposing upon a child it doesn't know the special views of a particular school board, principal, or teacher? Society does not do this to private school users; in justice and common sense, how can it do it to the rest? We know of no principle favoring subordination of low-income children to the peculiar preference of strangers, at least where the family's own choice remains within the range of values and practices legitimate for others.

There is a final consideration. This is the new humility beginning to pervade the social science of children's welfare. It has in our time become apparent that in many areas the professions know very little of how to intervene successfully in children's lives (Mnookin 1975, p. 226; Coons 1976a). Under conditions of professional dissensus, giving families a broad discretion in education seems little more than common sense.

Choice and Social Goals

How would regulated family choice advance the social goals of community and racial integration?

Community

The social ideal expressed in the concept of community is subtle and somewhat paradoxical. On the one hand it suggests unity and, on the other, variety. This Delphic quality informs the fundamental political dogma--"one out of many." Does it imply that we are many struggling to overcome our differences;or is it, rather, our very differences that make us one? Is human variety a source of order or disorder?

While differences can be risky, we stand with variety as a principle of social strength. As with the genetic order, the least differentiated of human societies may be most vulnerable to environmental change. Variety, to us, is also a social good in itself. It is a source of esthetic fulfillment and intellectual growth. So long as variety remains intact in the distinct cultures and ideologies of our people, it offers to every individual a choice of paths to personal fulfillment. It does so, that is, so long as the law of the society guarantees freedom from discrimination and protects the choice of persons to adopt the life-style they prefer.

When this condition of free choice is fulfilled, variety can also yield peace and cooperation among groups, bedrock social purposes which we share. Nothing conduces more to support of the larger order than for minorities to perceive that their ways are trusted and even valued. Conversely, nothing may so fragment a society as a decision by the majority that minority values deserve nothing better than melting.

A society which trusts its minorities should implement their educational preferences, and family choice is the ideal mechanism for this, since it permits individuals to form educational communities of choice. It is far superior to the direct funding of existing schools, a device which encourages suppliers to fix and limit the forms and ideologies represented in the marketplace of ideas.

A pluralistic strategy in education would respond precisely to the fundamental change in the nature and function of communication since the advent of the melting pot. In a nation of widely scattered farmers and greenhorn immigrants it was at least plausible that coerced aggregation of the unwashed in a common school was a way of instilling the news that we are one people with inseparable destinies. In an age of mass communication the best news that could be leaked to the people is that we are not all slavish consumers of identical products and ideas. Schools of choice could provide this priceless function by giving life to minority ideals, ideas, and culture.

Even the angriest of ideologies can in the long run make its contribution to community. The child who is exposed to one-sided politics and religion at least has no doubt that there is a morality among humans and that morality is important. To see this is to take the first mental step toward brotherhood, a step that must be left unattempted in the neutralist morality of public institutions. Choice would, at its worst, spare us that most grievous sin against community--indifference. It might in the bargain give to minority children that sense of personal distinctiveness--of "identity"--that seems to underlie the psychology of tolerance. It is those who recognize themselves who are most ready to recognize others.

Racial Integration

If everyone were free to choose his school, what would be the consequence for racial mixing? The question will never be fully answerable. Absolute freedom to choose plainly is impossible to achieve, not only because of finite resources but because of conflicts in preferences; X cannot be free to associate with Y if Y is also to be free to refuse the association. We can, however, approach full freedom for the consumer of education by giving him his choice of school and the right to transfer if later he prefers another. To achieve this much we must in various ways limit the school's (and other patrons') freedom to exclude or discriminate against him. We are content to do so both because we are interested in the child as such (the school is instrumental), and because a rule of associational inclusion can offset the disadvantage of minorities.

Choice has shown a significantly greater capacity to integrate schools than does a neighborhood system of assignment. It has been tried with varying degrees of sincerity and gusto in a fair number of American cities, several of which we know firsthand. Even many of the narrow and half-hearted programs have produced some increase in physical integration. For the most part, it is blacks who have chosen to attend majority white schools; but in some instances--for example, in Evanston, Illinois, and Redwood City, California--the traffic was heavy in both directions (McAdams 1974, p. 69).[6]

To the extent that integration is voluntary it has several useful qualities. One, its stability is almost a matter of definition: people getting what they want by personal selection tend to stay. In addition, voluntary integration tends to become infectious. It begins with an adventurous few, but others follow. Still another advantage is the capacity of choice to forestall the residential emigration of white families who accept integration but prefer to avoid heavy black majorities.

Chosen integration would be incomplete integration. Very likely many families would choose to remain in uniracial--principally black--schools. Yet if this choice were truly voluntary we could not consider the outcome to be evil. There is nothing inferior or objectionable in a uniracial school; it would be Olympian arrogance to imagine that black schools could offer nothing in culture or ambiance worth choosing.

It would also be political naivete to suppose that society has a more promising option for integration. Those who would escalate compulsion as the hope of physical integration should study both the relevant social science (Orfield 1976; Wolff 1976; Armor 1972, p. 90; Pettigrew, Useem, and Normand 1973; Farley 1975, p. 164)[7] and the recent opinions of the Supreme Court[8] (also Fiss 1975, p. 217; Bell 1975, p. 341). There is little prospect that the court will order the state to bus the suburban white student back to the city. Indeed, if it did so the exodus to private education could vaporize the very support for education upon which the urban poor must depend.

What hope is there then in a system of choice? A great deal, and now is the time. There is presently a marked surplus of places in suburban public schools which are principally white. There is space in private schools, urban and suburban, and more space and schools would appear if scholarships and transport were available. Perhaps children should be limited to transfers which have an integrating effect, but they should be given the full range of such schools in the metro area to choose from.

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[6] Our own research has identified substantial positive effects form additional voluntary programs in Richmond, CA, San Bernardino, CA, Portland, OR, Milwaukee, WI, and elsewhere.

[7] See also, U.S. Commission on Civil Rights Statement on Metropolitan Desegregation (1977).

[8] Village of Arlington Heights v. Metropolitan Housing Development Corp., 97 Sup. Ct. 555 (1976); Milliken v. Bradley, 418 U.S. 717 (1974); Spangler v. Pasadena Unified School District, 427 U.S. 424 (1976).

Mechanisms

The administrative and fiscal devices needed for a system of choice can be conveniently considered in their relation to complementary purposes. First, a family's wealth should not affect its capacity to choose whatever is available within a system supported by public funds. Second, barriers to choice should be minimized; these include discrimination against certain types of children by educational suppliers, lack of information among poor families, difficulty in market entry for new schools, and similar impediments. Third, minimums of educational input and/or achievement must be established and supported by alternative forms of administrative control. Obviously the potential forms of intervention for these three general purposes are protean, and we must be content to give but a sense of the richness of fiscal and administrative options (Coons and Sugarman 1971).[9]

Removing Wealth Barriers

Begin with the simplest forms of subsidy in which the family is not permitted to affect the amount. Suppose that each child is supplied a scholarship that is uniform in amount, except perhaps for adjustments representing higher costs of land, goods, and services in certain areas. Then simply add to this a proscription forbidding the charging of tuition beyond the scholarship amount; otherwise wealthier families will add on and income classes will separate themselves into schools of graduated cost; this is intolerable in a publicly financed system (Friedman 1962, pp. 85-107).[10]

If choice in the level of spending is desirable (as we believe), a system of "family power equalizing" may be adopted (Coons and Sugarman 1971). Here each school would charge what it pleased, but the family and the state would share the cost of the tuition. The family's portion of that tuition would increase with its income; a poor family would pay a very small percentage, the rich would pay full cost.* The approachable ideal would be a payment formula by which a poor family realistically could "afford" as costly a school as a richer one. Thus family power equalizing lets the non-rich family especially interested in education spend at a higher rate if it is willing to make the extra sacrifice required.

Assuring choice

Enrollment problems are substantial. Here let us start with the assumption that each participating public and private school will determine how many students to enroll, but will not control who is enrolled. For schools with applications equal to or fewer than its enrollment capacity, all would be admitted. For schools in which applications exceeded spaces, some random selection method would be employed. A state agency could run the lotteries for admission.

There is a hard policy decision that must precede such a mechanism. Schools wishing to specialize in various ways--ecology, college prep, the arts, dance--seem highly desirable; yet to the extent their students lack the relevant talent, they are affected in their capacity to specialize. For this reason, some supporters of family choice would permit schools to select at least a cadre of their enrollees. Others think it enough that the school can counsel the family against enrolling an untalented child.

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[9] Coons and Sugarman (1071) give a detailed statutory model of intervention.

[10] This is a primary fault of the widely publicized suggestion of Friedman (1962).

*Editor's note: Full additional cost.

It is also necessary to decide whether the selection rule ought to be tilted toward racial integration in order to offset the inertia of history, housing patterns, distance, and habit. it would be our own preference to do so, and we would suggest the wisdom of a regulation of the following sort.

> In cases in which a school has more applicants than places, the [state official]. . . shall first select at random from each racial group which constitutes a minority of the school's applicants a number of students not to exceed fifteen percent of available places. All applicants not selected in this process shall then be pooled and the remaining places filled by random selection from that pool.

This suggests the importance of an information system which is designed not for the literate and suophisticated but for those who may be used to getting their information by the grapevine. Families must know what kind of schools exist, and schools that are presently popular may not be motivated to advertise in all neighborhoods. Direct counseling services will be necessary, as well as a right to visit participating schools under certain conditions. it will also be important that the family have access to independent professional counsel concerning the needs and talents of their children. A yearly stipend for this purpose would be ideal both in terms of assisting family choice and in building an independent counseling profession.

Having chosen and been admitted to his first, second, or third choice, how will the child get there? Plainly a system of no-cost transport would be vital. And having arrived, there must be assurance that the school which may not have been eager to have him does not de-select him by discriminatory treatment. In short, we would need a system of due process of the sort already abuilding in the public schools.[11] For the child who is incorrigible or manifestly incapable of benefitting from the school of his choice, a fair system of separation would be necessary. The hope is that it would limit the school's power to behave arbitrarily without destroying efficiency.

To make certain there are new schools to choose from, the state may wish to assist entry by guaranteed building loans and similar devices. Entry costs in the educational business can be kept very low, but it would be well to offset some of the advantages of the public and private institutions already in place. It is also fundamental that public schools--like the rest--be left dependent upon their capacity to attract students. Probably most families would continue in public schools. However, it would be self-defeating for the state to pour in extra money to shore up a school no one wants. A process of dissolution equivalent to bankruptcy should phase out unsuccessful public schools; at the same time, new public entries should be possible, but should be governed by estimates of their ability to survive. This orderly closing of public schools that families shun, and opening of those they prefer, would magnify the importance of even marginal change; if nothing else, existing schools could read the signs and reform.

Public school fatalities suggest the problem of teacher security. If each school rests on its own bottom, the present district and state seniority, transfer, and security systems for public teachers will be replaced in part at least by contracts with individual schools. There are various ways to protect existing staff by "grandfather" provisions without leaving the schools crippled. Teachers may be willing to exchange some of their present perquisites for the prospect of an open and exciting system in which energy and creativity enjoyed some elbowroom. There are risks for teachers, but there are invitations to professionalism that will appeal to many.

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[11] See old Section 214and new Section 44A of the Internal Revenue Code.

Assuring the Minimum

The minimum in education--the public consensus respecting values and means--is today expressed in term of "input"; that is, there are objective experiences required for students. These typically include total hours and days of instruction, coverage of particular subjects, a teacher who has received a degree in education, and instruction in a building of a certain sort. In some states a child may be taught in his own home, but often this is only if the teacher is certified (Sugarman and Kirp 1975, pp. 144, 200, 208-10).

A choice system could include a minimum and might include many of these same input rules. Their observance could be required of any participating institution. We would hope that the teacher certification requirement which has seldom been applied to private schools would be dropped altogether. And a relaxation of parts of the building codes which principally benefit the construction companies would be sensible; likewise we conclude that instruction should be permitted in all sorts of basically safe environments, including private homes. But education in the agreed basics for, say, 175 days a year could well remain compulsory. So long as flexible schedules and environments were accommodated, the bulk of present requirements could survive in a choice system. That is not to say that it should.

One broad alternative is to move toward output minimums--that is, to standards based upon the actual development of the individual child. One model is the neglect laws by which children are removed from families; if the child falls below a certain standard of educational achievement the family would lose its authority to direct his placement in formal education. There are several variations on the input/output theme. The state could view input as sufficient; families would retain choice so long as they met an input minimum, regardless of output. Another would view input merely as necessary; families would lose choice unless the child met both the input and the achievement standard. Still another variation would disregard the character of the educational experience so long as the output were sufficient.

What devices would be used to establish output criteria? No doubt tests, interviews, and observation would be suggested. One difficult question is whether to establish a uniform minimum or to vary it according to some prediction of how the individual child "ought" to be doing given his natural gifts as measured by the professionals. Allowing families to offer their own objectives and programs for approval by an independent inspectorate seems an appealing part of any package.

Whatever form of output minimum were adopted we would expect systems of choice to increase the percentage of children who achieve it. Among today's population of habitual truants and dropouts alone there must be many who would today be in formal education had they not been driven from pursuit of the minimum by assignment to a school experience they could not accept. Given their choice of schools they might still have dropped out or failed, but if any at all were saved it would amount to a net gain.

Conclusion

Many assert that choice can never come, that the political impediments are structural and beyond redemption. This may be, but our present observation is that the old structure of educational finance and governance is quaking. The forces are not merely a popular discontent, though that is real. In some states, including California, there is an opening of the political process by constitutional fiat. The legislative renaissance provoked by Serrano v. Priest[12] is the first since the imposition of public compulsion a century ago. It is impossible to predict its outcome, but there are signs that those who prefer choice, including minorities, will have a voice in the final solution. It could include substantial experiments with choice as a part of the Serrano package.

Some warn us that choice, if it does come, will cause disorder and cultural discontinuity--that it will bring too much change. Others fear the opposite: that essential change is beyond the power of social mechanisms and that choice would bring little more than marginal variations on the present themes. Pessimism, it seems, can make the most of anything. We have already answered the fear of social disruption. In concluding, we would answer the alternative fear of inadequate change by suggesting that marginal differences in observable behavior can count in a deep and powerful manner. A large measure of institutional continuity is exactly what one would expect: the race is not programmed for anarchy. Nevertheless,freedom to select one's own way could have profound psychological significance, even if only the few employ it to alter their external experience in substantial respects. To choose what has previously been compelled is choosing nonetheless. Perhaps the differnece is only a matter of human dignity and our view of one another. To us that seems enough.

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[12] Serrano v. Priest, 18 Cal. 3d 728; 557 P 2nd 929 (1976).

POWER TO THE PEOPLE THROUGH EDUCATION VOUCHERS

By Edward T. Cotterell*

At the heart of the Education Voucher debate is a struggle for power. To understand the education voucher struggle it is essential to understand the flow of money through the existing education system and how an education voucher system changes this flow.

We begin with the taxpayer. Government taxes people primarily at the state and local level in order to support the government's education system. Tax money flows through collection agencies to state education departments and local school boards. The school boards distribute tax money to their employees, who are responsible for providing education and related services.

This system gives power to government. While it should be noted that a little money leaks out of the system in the form of transportation, books, etc., to parents of children attending nongovernment schools, the overwhelming majority of the money remains in the control of government officials and employees. If parents disagree with the education services provided, they must either submit or send their children to a non-government school at their own expense.

A voucher system changes the flow of money. Tax money would still be collected and distributed by local school boards. However, rather than distributing funds as a lump sum, the boards would split the money up into unit cost entitlements for each child. The entitlement would be distributed in the form of a check that parents sign over to schools of their choice. The schools in turn would present the checks to the board for payment.

The voucher system shares power with the people. It fundamentally changes the flow of money in the system and therefore radically changes the education power structure--in favor of parents.

First, the voucher system eliminates the implied guarantee that money will always flow to the board's employees and replaces it with an arrangement whereby money flows through parents and guardians to any of several "approved" schools that they choose. Of course, government school teachers feel threatened by the loss of this guarantee, and their imagination runs to unemployment and insecurity. Obviously, the teacher unions can be expected to violently oppose giving power to the people when it means giving up a guaranteed pipeline to the taxpayer's pocket regardless of job-performance. Unions fear they cannot survive when teachers become professional owner/operators instead of boxes on an organization chart, and when parents become consumers instead of captured clientele. Government teacher unions prefer powerful government and weak people.

Second, the voucher system changes the role of local school boards. When the voucher system does is change the role of government from one that controls publicly funded education to one that regulates an indirectly subsidized competitive education industry. The decontrolled education industry will have need of both state education departments and local school boards to define an "approvable school." For example, most advocates of tuition tax credits and vouchers do not deny that government properly has a role to enforce rules regarding health and safety, insurance, school building construction and fire code rules. Nor would they argue against rules which require all schools to post their tuition charges and freely provide a written description of their academic program including discipline policy. Certainly other rules would be needed and state education departments and local school boards would be needed to create and enforce them. At the same time state and local agencies would be needed to certify that schools conform to the rules and therefore can be "approved" to receive entitlement payments.

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Obviously, school boards will also be required to manage the actual distribution of entitlements and to create rules for payment. In addition, they will continue to operate many government support functions such as transportation, school crossing guards, central accounting, attendance record-keeping and adult-education programs as well as continuing operation of the local government-run school system.

Finally, as an adjunct function, school boards may develop an Education Consumer Information Bureau. The reason for this is that as competition develops, parents will be faced with the responsibility of selecting an appropriate school for their children. When a variety of "approved" schools operate in the same district, it is probable that individual schools will specialize just as other businesses specialize. Of course, existing religiously oriented schools will continue to dominate that segment of the market that wants religious training combined with academic training. However, many other niches may grow. For example, extended day schools may appear to respond to the needs of working parents and latchkey kids. Others may specialize in children from broken homes, in children with special discipline problems or in children gifted in science. Existing government schools may continue to dominate the market segment that prefers the large-department-store approach to education.

By a voucher system parents will become more powerful. Imagine a single mother with three school-age children and an after-tax income of $10,000. This person presently does not have much economic power. If the town where that parent lives has a voucher system averaging $3,000 per child, that parent's economic power jumps from $10,000 to $19,000, a 90 percent increase. In addition, that parent will be able to enroll her children into schools she feels will best serve her children. Since the parent selected the school, school support of parents should increase and children will more likely find themselves in a school/home situation that reflects consistent values. This may make students feel more secure, more confident, and less rebellious.

The voucher system represents a major power shift from government to people. It eliminates the idea that education is an absolute government-operated function. Government, however, retains a two-fold function: It still has entitlement programs for the education of children; and it regulates and supports a competitive education industry.

VOUCHERS IN VERMONT: WHO SAYS VOUCHERS WON'T WORK? VERMONT HAS BEEN USING THEM FOR YEARS*

By John McClaughry**

Washington bureaucrats, Chicago free-market economists, Harvard sociologists and teachers-union officials from New York to California have argued for years over the idea of education vouchers.

Meanwhile, students in almost 100 Vermont towns have quietly received education vouchers from their local school districts, just as their parents and grandparents did before them.

Now Vermonters have never used the word voucher to describe what happens there, and some state officials were kind of skittish about a reporter coming around and asking questions. Nevertheless, long before the rest of the country had ever heard of the idea, many Vermonters were benefiting from a system whereby the local government uses tax monies to pay for education rather than to provide it.

Early Vermonters, like all New Englanders, placed great value on the education of their children. Vermont's 1777 constitution--the oldest state constitution still in force--provided that "a competent number of schools ought to be maintained in each town unless the General Assembly permits other provisions for the convenient instruction of youth." Citizens then undertook to found private academies to educate their sons and daughters. People's Academy in Morrisville, Bellows Free Academy in Fairfax, and Burr and Burton Seminary in Manchester are typical survivors from this early era.

As the idea of universal taxpayer-supported education took hold in the first part of the 19th century, the future of these local academies was questioned. Should the local school district finance a new public high school, thus dooming the local private academy? Or should the district simply pay tuition to the private academy, which would serve the purposes of a local public high school?

Since the prominent civic leaders of most Vermont communities had themselves graduated from local private academies, they usually exerted their influence against putting the school out of business by creating a new public high school. Taxpayers also were generally averse to the idea, since it was obviously cheaper for the school district to pay tuition for their children than to assume the capital costs of creating a whole new school. And so it became a tradition in many Vermont towns simply to have the taxpayers pay for the town's children to attend the local private academy. Where there was no private academy, the local school district created and supported a public high school or joined with nearby towns to create union districts. In a few cases, like Townshends old Leland and Gray Academy, the private school was converted into a public high school.

Vermont's experience was not unique. Headmaster James Steenstra of the Gilbert School in Connecticut says that, beginning in the early 1800s, local governments throughout New England financed the education of school children at private academies. Today, vestiges of the system remain in three towns in rural Connecticut (Norwich, Winsted, and Woodstock) and at least three towns in Maine (Lee, Blue Hill, and Dover-Foxcroft).

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*From Reason (January, 1984)

**John McClaughry, formerly a senior policy advisor in the Reagan White House, went home to Vermont in 1982, where he lives at Kirby and runs the Institute for Liberty and Community.

Today, 95 of Vermont's 246 towns have no public high school and do not belong to any of the state's 27 union high school districts. State Law authorizes the school board of these towns to designate a high school and to pay the full tuition for any local student to attend it. If a school district does not designate a high school, it must pay on behalf of any town pupil, to any approved high school in or out of the state, a tuition amount equal to the average Vermont union high school tuition ($2,675.67 in the 1983-84 school year). If tuition at the chosen high school exceeds that amount, the school district may choose to pay the full amount, but because of taxpayer pressure this is rarely done. The parents must chip in the difference.

Even if the local school district designates the local private academy as the town's high school, it may still be possible for parents to enroll their children elsewhere with voucher support. The town of Lyndon has a strict policy. It has designated Lyndon Institute as its high school and stoutly resists parents' request to send their children elsewhere. The reason cannot be economic, for the Lyndon Institute tuition is slightly above the state union average. The school board seems to believe that all local students simply should attend the local high school. On occasion, presented with a very strong argument, it has relented, but more commonly it will deny appeals. The state Board of Education has upheld the denials.

St. Johnsbury, nine miles from Lyndon, has the opposite policy. Rather than designating St. Johnsbury Academy as the official high school, the authorities allow parents to choose any approved school. But of the 419 high-school-age students in the district last year, 401 did attend St. Johnsbury Academy. Seventeen chose other nearby schools; only one student attended private school away from the area (in Connecticut). Since St. Johnsbury Academy's tuition is $465 above the state union average and the district chooses to pay the entire tuition, one would think that taxpayer pressure would encourage parents to select alternative schools --but this does not seem to be the case. St. Johnsbury Academy, with an excellent scholastic and athletic reputation, has long been the preferred choice of local parents. It also has a boarding department for approximately 40 students.

The Manchester-Dorset area, where the Torregrossas live, has a relatively high-income, well-educated population, famous for expensive summer homes and country clubs. According to state records, the two towns together had 344 high school pupils last year. Of these, 299 attended Burr and Burton Seminary, a nonsectarian private academy located in Manchester. Three attended public high schools in Vermont or nearby New York. Seventeen chose private schools elsewhere in Vermont. The remaining 15 attended out-of-state private schools from Phillips Exeter to Lawrenceville to Miss Porter's School. One of them ranged as far afield as Ketchum School in Idaho. To each school the Manchester Dorset school district supplied a check for $2,480.20, the state-designated average for 1982-83. This covered 25-35 percent of the tuition, room, and board costs for such high-class private academies. Parents, of course, made up the difference.

Barre Town, a blue-collar rural area surrounding industrial Barre City and Vermont's famous granite quarries, presents an entirely different picture. Of the 594 high school pupils in Barre Town last year, 521 attended public high school in Barre City. Another 72 went to public high schools in nearby towns, presumably for geographical reasons. Only one went to a private secondary school in a nearby town.

There is an important limitation on the voucher system in Vermont. Payments can be made only to nonsectarian private schools approved by Vermont's Department of Education. This at once leaves out the state's three Catholic high schools and one fundamentalist Christian school. The department maintains a list of approved schools, which includes most of the established private academies in New York and New England. When parents propose to send a child to a school not on the list, the department will investigate. For well-established schools, a call to the department of education in the other state may suffice. In some cases the Vermont department will dispatch a field investigator. According to department officials, in one recent case the school was not approved, and the parents, informed of the reasons, chose another private school. Ordinarily, there is some presumption that parents who can ante up $5,000 above the value of a voucher should have some idea of what they are buying.

My own town of Kirby, population 285, is one of about 25 Vermont towns that has a voucher system for all grades, not just for high school. Since 1978, taxpayers have paid the full tuition for Kirby's grade-school children to attend school in adjacent towns (and at least the state union average for high-school pupils). The town continues to pay for two school buses to transport most of its pupils to the schools of their choice, although some must arrange their own transportation.

Among the available schools is Anna McClaughry's. Three years ago a private grade school in Newark, 18 miles from Kirby. closed its doors when the proprietor decided to take a sabbatical. Some of the suddenly unemployed teachers and the parents of the pupils founded Riverside School, located on the Kirby side of nearby Lyndon. The school offers instruction in grades 5-8, emphasizing literacy, the mastery of traditional subject matter("social studies" has been banned), French and Latin, environmental appreciation, and computer knowledge. In contrast with most public middle schools, three of its six teachers hold degrees from Yale, Harvard, and the Sorbonne.

While Vermonters, unbeknownst to the rest of America, have been carrying on their voucher-like tradition, a debate about vouchers has been part of a growing movement in the country to change public policy so that more parents will have a meaningful choice about their children's education. The reason for this movement, as Harvard law professor Charles Fried aptly summarized recently in the New Republic, is that "many individuals are deeply dissatisfied with the public education system and the network of union and political alliances that make it particularly hard to change."

VOUCHERS FOR HOUSING AND HEALTH CARE: WHY NOT FOR EDUCATION?

By Roy Lechtreck*

There are governmentally provided vouchers for housing and they have been proposed for medical care. Why not vouchers for education?

Housing Vouchers

For over two decades many authorities have advocated that vouchers be used to promote diversity and competition in the field of education. Critics of the voucher plan have protested that education vouchers would be uneconomical, unfair to minorities, and un-American. Vouchers may be imperfect, but opponents have blocked any true debate and testing of their worth.

Vouchers for housing have been in existence for a decade! A book has recently been published explaining how the housing voucher system works.[1] This book "chronicles the conduct and results of one of the most amibitious social experiments ever undertaken: The Experimental Housing Allowance Program (EHAP), an eleven-year effort to provide direct cash subisides to low-income households to assist them in obtaining adequate housing. Launched by the Department of Housing and Urban Development in 1970...this landmark experiment reached over 25,000 people in twelve cities--at a cost of $160 million."

Professor Eugene Smolensky, Department of Economics and Director, Institute for Research on Poverty, University of Wisconsin, characterizes the housing voucher plan as "a bold experiment with distressing results for proponents of helping the poor with goods rather than money. The picture that emerges of the poor as savvy spenders is especially noteworthy." Edward W. Brooke, Chairperson, National Low Income Housing Coalition, says, "As the chief legislative sponsor of the Experimental Housing Allowance Program, it is heartening to see the evidence of its value."

Health Care Vouchers

In the August, 1981, issue of *The Hastings Center Report*, there are two articles on vouchers in the field of health. One article, entitled, "Health Care Vouchers and the Rhetoric of Equity," is written by John D. Arras of the State University of New York (Purchase) and the Montefiore Hospital in the Bronx. The other article, "The Small but Crucial Role of Health Care Vouchers," is by Loren E. Lomasky of the University of Minnesota (Duluth).

Professor Lomasky's arguments for medical vouchers are very similar to the arguments used by advocates of vouchers for education and housing. "The two major functions of health care vouchers are," he writes, "first, to provide the poor with the means to avail themselves of medical services they could not otherwise afford; and second, to allow persons to choose health care providers and services *for themselves* rather than have them imposed by benignly (or otherwise) intentioned governmental functionaries."

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[1] Raymond J. Struyk and Marc Bendick, Jr., eds. *Housing Vouchers for the Poor* Washington, D.C.: The Urban Institute Press, 1981.

CHOICE EXTRACTS

Ed. Roy Lechtreck and

Daniel D. McGarry

VOUCHERS: A PASSPORT TO BETTER SCHOOLS FOR BLACKS**

By Walter Williams*

Public education is in shambles--particularly that delivered to blacks. Meaningful measures to improve it, such as educational vouchers or tuition-tax credits, are roundly denounced as racist, elitist, and anti-education by the educational establishment and its patrons. They reason that poor blacks would be hurt by anything threatening the established education monopoly.

The National Center for Neighborhood Enterprise, with headquarters in Washington, D.C., and directed by Robert Woodson, is engaged in work that reveals the self-serving arguments of the educational establishment.

The NCNE has identified more than 250 independent black, hispanic, American Indian, and Asian schools. Most are in inner-city, low-income neighborhoods. Enrollment ranges from 22 to 800 students. They have an open-door policy and require in-house or standardized testing for placement. The term of enrollment ranges from two to seven years. Graduates go on to other private schools or to specialized and selective public high schools. Most of the neighborhood schools receive most of their income from tuitions, which range from $800 to $2,000 a year. Additional income is derived from foundations, churches, community organizations and parental fund-raising.

The drive and ambition of poor parents to protect their children from destruction by public schools has produced notable successes. That's remarkable, considering the fact that, according to the April 27 Washington Post, a student-teacher in a Virginia classroom couldn't spell November.

Contrary to claims by the education establishment and its dupes among black "leaders," students who attend these schools are neither rich nor middle-class in most cases. They are children of working parents, some of whom work at two jobs to pay the tuition.

Robert Woodson's NCNE report on black independent schools proves poor people can, given a change, provide their own solutions to educational problems.

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**From The Washington Times (June 8, 1984).

BENEFITS OF EDUCATION VOUCHERS AND SOME MYTHS CONCERNING THEM

By Robert J. Wittmann*

Among benefits of a voucher system are the following:

Parents and students would have real freedom of choice without financial penalty in the pursuit of learning;

The quality of education available for all would improve due to the competition afforded by freedom of choice;

Differing value systems would be afforded their due respect by government. As some have argued, the maintenance of religious neutrality in government-controlled education in effect provides state aid for the view that the Christian revelation, or any other form, is not an historical fact and/or has no meaning for modern man and his preparation for life;

Parental choice would give new hope for racial integration. As U. of Cal. Law professor John Coons says: "Court orders generally stop at district lines; but voluntary transfers would cross those lines to reach schools public and private." Vouchers would open new opportunity for the form of integration that we know is stable--integration by choice. Polls show that the public supports voluntary integration as strongly as it rejects compulsory busing;

Vouchers could save taxpayers hundreds of millions of dollars if they prevent the shifting of a large number of private school children to the public schools; and even more if they encourage more parents to use private schools since the latter are generally much more economical than public schools.

Teachers would benefit. According to John Coons: "Perhaps the biggest winners in the new system would be teachers. Families favor schools that concentrate resources on teaching, not administration. Teachers would also at last be in a solid economic position to start their own schools, and financial institutions would have reason to back them."

(This list is by no means exhaustive.)

Myths Concerning Education Vouchers Answered

I will briefly address a few of the myths concerning effects of education vouchers:

Myth #1: State aid to religious education by means of vouchers would violate our federal Constitution. What this argument ignores is that vouchers preferably are awarded to the parents, not to institutions, so that any advancement of religion is not a primary result of such a system. Other constitutional tests, such as excessive entanglement, can be met by simply respecting the institutional integrity of our fine private religious schools in this state.

Myth #2: Any form of educational freedom legislation, including vouchers, would destroy public schools. Not only is this argument an indication of insecurity on the part of public school personnel as to the quality of their educational performance, but it is simply not empirically true. In every Western democracy which protects educational freedom (as most of them do), public schools continue to exist and flourish.

Myth #3: A voucher system would accentuate tendencies toward segregation based on race or income. Such an argument ignores the fact that private religious schools are more integrated than public schools on the whole, according to the research of distinguished educational scholars such as James Coleman, and would probably become even more so. Voucher advocates have also proven their desire to address such concerns by drafting their proposals to conform to federal civil rights statutes. Nor should a voucher system become a backdoor means for the state to control or excessively regulate non-government education.

* Associate Director, Thomas J. White Foundation, St. Louis, MO.

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A PLEA FOR VOUCHERS IN BRITAIN

By Marjorie Seldon

Can a parent be confident that his child will not reproach him in future years for leaving him in an inefficient or an unhappy school?

It could happen because most parents are not insisting on their ability to choose or chance their children's schools.

Should teachers' unions in Scotland be heeded when they press for the amalgamation of Catholic with other schools on the grounds that selective religious education is harmful to the career prospects of teachers? Should the Council for the Advancement of State Education be taken seriously when it advocates universal comprehensive schooling and an outlawing of independent schools? Should the governors of a school be able to make decisions which must be accepted by all parents because they can't remove their children from a school if they don't like the way the school is run?

In loco parentis was a popular phrase a hundred years ago. Then it meant that parents, often "exiled" in far-off corners of the Empire, could delegate their parental duties to chosen schoolmasters. Today parents are obliged to delegate important decisions affecting their children's education to the politicans and bureaucrats. The latter are "in the place of parents" -- *in loco parentis*.

Few would agree that this is the natural order of things; or that, because it is so, it must remain so. But unless there is a reversal, "parental choice" is non-existent.

The "great educational debate" continues, but serious educational problems remain. At the root of them is the fact that state education is a service run more in the interests of the producers than in those of the consumers.

Harsh words, and they will be indignantly denied. But consider the facts. Have the plans, or rather the dreams, of activist politicians, psychologists, educationists and teachers brought the benefits they claimed? Comprehensive schools, open-plan schools, "banded" schools, sixth form colleges, tinkering with the examination system - have they justified all the cerebration and discussion, as well as the expense to the taxpayer? Yet the plans and the dreams wax and wane not.

The mechanism of educational change lies ready to be used. This is called the "education voucher," and it can be described in terms as simple as those used by Tom Paine* in 1791 when he said that some taxes should be returned to the working man so that he could buy schooling for his children. So today a voucher would give each parent his child's share of the costs of state education to be used at a preferred school. The option of an independent school should be included to overcome bureaucratic lethargy and to give parents on all levels of income and from all social classes access to schools of their choice.

We would then see:

i. Competition between state schools for pupils,
ii. Competition between state and private schools for pupils,
iii. An inducement to private schools to expand in number and variety,
iv. An inducement to private schools to keep fees low,
v. Accountability of educators to parents,
vi. The demise of unpopular schools.

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*The Rights of Man.

There are those, of all parties, who think that consumerism can be confined to the supermarket and the travel agent. This cannot possibly be. The voucher would be a gentler way of introducing long overdue changes than marching parents and striking ratepayers.

Many teachers in state schools are miserable. Disruptive pupils, absence of discipline, lack of adequate textbooks, harrassment by union officials who may order action which teachers find personally abhorrent are among reasons some would like to leave the profession or teach in private schools.

We have gone some distance in Britain towards organizing experiments in voucher financing with the publication, last year, of an investigation into the feasibility of a voucher experiment by the courageous Kent County Council.*

One of their most significant findings related to reasons given by the interviewed parents for wanting to change their children's schools. 71% said they would want a transfer if standards seemed to be failing, 20% if the school were larger than 1000 pupils. On the other hand, 97% said they would not want to transfer if discipline became stricter.

72% of all parents wanted the option of the private school even if they didn't want to use it themselves. About 10% of all parents indicated an intention to transfer their children, the greater number from secondary schools.

Response from teachers was inhibited by strident attempts by teachers' unions to influence replies. But of those teachers who answered a questionnaire, 50% said that details of teachers' experience should be withheld from parents and 51% thought that the results of children's standardized tests should be given to parents only if they asked; while 13% thought they should be withheld altogether.

This attitude of teachers justifies the contention that public education is today run more for the producer than for the consumer. If it were not so, would officials at a Union Conference last year have asked for the withdrawal of a Resolution urging the lowering of the school leaving age because it would mean the employment of fewer teachers?

The Institute of Economic Affairs has just produced a study** which confirms their previous findings in 1965 and 1970 that preferences for private education (and private health) have been suppressed. Their new evidence is that if parents had vouchers even of only two-thirds of average school costs, the demand for private schooling would have risen from an estimated 30% in 1965 to 51% in 1978. Of course, if the voucher had been worth three-thirds, the increase in demand would have been larger. And as a country we would actually be spending millions more on the education of our children than we do now because the private purse would add to the public purse.

Although open enrollment or voucher options between state schools would be an enormous step forward in the achievement of consumer-oriented schools, the exclusion of private schools would be a pit at a time when it is essential to pull the country out of the doldrums. The record of the private schools in helping average children to pass exams and become professional people, administrators and skilled technicians is much better than the achievements of the state sector with children of similar ability. It would make sense to expand the private sector and make it available to many more children.

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*Education Vouchers in Kent, K.E.C. (Maidstone).

**Over-ruled on Welfare, Harris and Seldon. I.E.A.

A PLEA FOR SUPPLY-SIDE COMPETITION AND VOUCHERS IN JAPAN*

By Sakaiya Taichi**

At no other time in history have such massive amounts of money been spent on education. Nor has the number of people directly involved in education ever been as high as it is now. Never before has education been the subject of such widespread debate or regarded with such deep concern and misgivings. Despite the unprecedented amounts of money, human resources, and thought being invested in education today, something is wrong. In fact, many aspects of education in Japan are steadily deteriorating, and there is a growing danger of continued deterioration.

Letting the good drive out the bad

Japan maintained consistently high economic growth rates in the postwar years. The income level of its citizens rose, and remarkable advances were made in the quality and technological standard of Japanese products. While a number of problems remain, it is fair to say that as far as the economy is concerned, Japan has been successful. This economic success was the product of a system of free compeltition, under which efficient enterprises grew, superior products found widespread markets, and superior technology was enthusiastically acquired.

On the whole, the principle that superior products drive out inferior products still operates on the economic plane, thanks to the survival of a competitive system that permits the transfer of production factors and changes in market share among companies. But the superior can only drive out the inferior in an environment of free competition in which people are at liberty to select the superior. The system does not function efficiently in socialist planned economies, which are characterized by overall restrictions on free competition. Even now, 38 years after World War II, such economies are still plagued by shortages of quality consumer goods and foodstuffs, and service industries are underdeveloped.

There are important lessons to be learned here with regard to medicine, health insurance, and other aspects of social welfare policy. Even more vital, however, is the bearing on education. Only by introducing the principle of competition into the schools is it possible to encourage the spread of superior education and the elimination of inferior education.

In a healthy economy, competition is always conducted on the side of the seller, the supplier. When economists use the term competition, it is assumed that they are referring to supply-side competition. Competition on the demand rather than the supply side indicates an extremely unhealthy economy. Under normal circumstances a number of manufacturers produce the same product, such as televisions, and compete for sales, with consumers selecting freely from among the range of products available. It would be highly abnormal and undesirable if television manufacturers were assured of being able to sell their products at high prices, with consumers having to compete for a place in line or take a competence test before being able to buy sets.

If we transfer this concept to the field of education, it is obvious that competition should exist on the supply side, that is, teachers and school administrators, and that students and their parents, the consumers, should have freedom of choice. But most contemporary Japanese educators are preoccupied with the concept of competition at the consumer (student) level in the form of entrance examinations, and are unable even to conceive of competition among the suppliers of education, namely, teachers and school administrators. They seem to regard as quite natural this abnormal situation whereby the suppliers are able to sell all they can produce at premium prices while consumers are forced to compete desperately. What is more, teachers, school administrators and most commentators on education apparently defend this situation.

*From Japan Echo, XI, No. 2 (1984), pp. 38-44.

**Graduated from the University of Tokyo, has been an MITI official and is now a writer and social commentator.

I have never heard of a case where the teaching staff of a public school has been reduced or replaced because the school was regarded as unsatisfactory by its students and their parents. A public school is closed or reduced in size only when there is an extreme decline in the population of the district it serves, which means that its teachers and administrators never have to worry about their performance having any repercussions on their school.

With a situation like this prevailing at the high school level, it is hardly surprising to find a total lack of competition on the supply side at the elementary and middle school levels. The consumers of education, the students, are assigned to schools according to residential zone.

Violence in schools, a consumer revolt

This is a frightening system. What would happen if the government agencies in charge of economic affairs tried to implement similar policies? What if, for example, the Ministry of International Trade and Industry suddenly developed a theory calling for the elimination of differentials among corporations and started to assign consumers to the various television manufacturers according to the size of each company's facilities, at the same time making it illegal to buy other manufacturers' products?

Under such a system consumers would be assigned solely on the basis of the manufacturer's capacity, irrespective of the quality of the company's managers, workers or technology, just as students are allocated to schools solely on the basis of classroom capacity. Some consumers would naturally receive faulty sets, while others would be forced to wait months for delivery. There would also be shortages of parts because of absenteeism. Even so, consumers would be denied the right to complain and would have no alternative but to buy the television sets allocated to them at the price specified.

The consumers of education are younger, and therefore more submissive, than the consumers of television sets. However, the abuses have continued for decades, and even these youthful consumers have finally begun to grow restive. This has been manifested at some middle schools in the destruction of school property and attacks on teachers. The phenomenon of violence in schools is a consumer revolt against an education system that denies freedom of choice.

Trust consumers' intelligence

The best way to bring about a fundamental improvement in the quality of education is to create a system under which inferior education is forced out of the market by superior education. This can be accomplished only by introducing the principle of competition on the supply side, represented by teachers and school administrators, and providing the consumers, students and their parents with freedom of choice.

The current system of allocating students compulsorily to schools by district served a useful purpose in times when education was not as widely available as now. This is analogous with the necessity for rationing goods in the immediate postwar years because of the extreme shortages that prevailed. Now, though, education is highly accessible. No parents begrudge their children an education, and it is almost unheard of for children to be denied the opportunity to attend school because of economic hardship. I doubt that there has been a single case in the last 10 years in which a student qualified to enter the elite University of Tokyo or Kyoto University has forgone matriculation for lack of funds.

simply because there are localities where a choice is not available.

A second, and more significant, counterargument is based on the fear that schools with a good record of success in preparing students for examinations for the next level of education will be swamped with students, encouraging some institutions to accept numbers several times higher than they can accommodate. Eventually these schools would become unable to provide adequate instruction. This argument sounds reasonable at first, but on closer inspection it is an insult to consumers.

If a school enjoys a good reputation and attracts a large number of students, the overcrowding problem can be solved through a rapid expansion of the school's facilities. Schools that cannot attract students because of a poor reputation would shrink in size or close their doors. This would leave surplus facilities that could be absorbed by the successful institutions and used as branch schools. A school is not a collection of buildings but a system of educational functions. Even a branch school can attract students provided that it offers a high standard of education. This has already been proved by private schools and after-hours cram schools. The result would be more good education and less bad education.

Of course, the educational standard of even the best school would eventually deteriorate if it were to follow a course of indiscriminate expansion and branch-school proliferation. The school would then cease to attract students in such large numbers and would stop expanding, having achieved a balance between supply and demand. I doubt that a school's current reputation and past achievements would be sufficient to ensure a continued influx of students into overcrowded classrooms. I credit Japan's educational consumers with more intelligence.

A third counterargument is that schools, faced with the need to attract students, would concentrate solely on cramming for examinations at the expense of character formation and cultural education. This certainly appears to be the case as things stand at present, but this argument too is an insult to consumers of education.

I do not deny that many students are eager to enter the most prestigious universities to improve their chances of employment by major corporations, and it is certainly true that the competition for places in these universities is more intense than it should be. But when we examine the reasons for this situation, we find that the main factor is the lack of alternative educational institutions capable of providing abilities and qualifications acceptable to society.

In fact, in addition to universities with a good record in placing graduates in leading companies, students are eager to enter specialized universities that are highly respected in their own fields. Competition for places at the leading music and art colleges is stiffer than that for entrance to the University of Tokyo. Unfortunately, authoritative institutions of this type exist in only a few fields at present, so the majority of ordinary students are forced to seek places at universities that offer good employment prospects.

My views are likely to elicit three counterarguments from educators. First, they will maintain that while a choice of schools may be possible in urban areas, in some rural areas there is only one middle school within commuting distance. This is certainly true, but by the same token there are many rural districts with only one retailer of television sets. Or if the local television retailer is not the best choice for an analogy--for some people may travel to another town to buy a television set--what about the local fish market or undertaker? I find it extremely unreasonable to advocate limiting the freedom of choice of consumers throughout Japan

If middle and high schools offered courses that allowed students to acquire first-rate skills and qualifications in various professional fields, such schools would doubtless attract large numbers of applicants. If School A were known for physical education, School B for language teaching, and School C for design, they would be flooded with applicants. The result would be an increase in socially respected "elite tracks."

The introduction of free competition into schools would no doubt necessitate efforts to attract students by offering unique options. This would lead to the development of diversified supply in response to diversified demand.

By extending the principle of free compeltition to include public schools, it would be possible to provide a wide range of unusual educational opportunities, ultimately fostering a more diversified stock of talent. This would certainly alleviate the problems associated with the "examination hell" that has resulted from the contemporary preoccupation with admission to universities that offer good employment prospects.

Schools are only part of education

The present education system stifles competition among the suppliers and provides extremely stringent prohibitions against individual schools' developing unique features. This approach is based on the philosophy that elementary, middle, and high schools exist to foster the development of "average" citizens.

That is why schools always insist that students take additional instruction in their weakest subjects. A student who shows a flair for mathematics but performs poorly in Japanese-language classes will be advised not to work any harder on mathematics but to concentrate on language. Similarly, a promising athlete who scores poorly in mathematics will be dragooned into supplementary math classes and forced to spend less time training on the athletic field.

This policy appears to be based on pure kindness and an enthusiasm for education, but in reality it is extremely cruel. Despite the natural human aversion for activities for which one has little aptitude, the schools force children to do unpleasant tasks and confront their own shortcomings for prolonged periods. As a result, children begin to dislike school and even studying and eventually lose all self-confidence. This force-feeding is attributable to the schools' single-minded preoccupation with the production of average citizens who are able to pass any subject but have no special talents.

A Japanese proverb states that a person who is accomplished in one field can turn his or her hand to anything. When people are encouraged to develop skills in the fields for which they show the most aptitude, their achievements in these areas enhance their self-confidence, school becomes fun, and they are motivated to work harder at other subjects. At the least, a sense of achievement enables students to recognize themselves as being outstanding in a particular subject.

BOOK REVIEWS

Three reviews of Coons and Sugarman's *Education by Choice*:

Education by Choice: The Case for Family Control, by John E. Coons and Stephen D. Sugarman (Berkeley, CA, 94720, University of California Press, 1978), pp. 249, $10.95.

Review #1: Criticism

By Supt. Donald Thomas
Superintendent of Schools, Salt Lake City

Some people have difficulty separating fantasy from reality, and some of these people write books. *Education by Choice* presses the position "that better education would result if parents and children had a greater opportunity for educational choice." Its authors are up the same creek as Milton Friedman, Christopher Jencks, and Mario Fantini. Their problem is that what is essentially a good idea loses credibility when the case is overstated. Disparity in educational quality is not corrected simply by giving parents a choice. Nor is the statement "There is no American ethic" defensible. Coons and Sugarman fail to recognize that the historical ethos in American education has separated our nation from most other countries of the world. They also seem to be unaware of current trends to strengthen that ethos. Today we are moving away from relativism and pluralism, not toward them. The American people have had enough of "relevant" courses and educational smorgasbords. As John Gardner says, America would be better "if all the warring factions in our national life recognized that we have some shared purposes."

This initial criticism of the book should not imply that the entire volume is a wasteland. There is much in *Education by Choice* that is productive and helpful. Further, the authors present their case in readable fashion, a pleasant change from professorial marching bands. Coons and Sugarman should be read by both critics and adherents, who in the end have the same objective: high-quality education for the children of our nation.

Here is the authors' argument: In its vision of individual human perfection, America is a virtual menagerie. The family is in the best position to make educational choices within the menagerie. To further these choices, Coons and Sugarman offer and examine four financial models stemming from "egalitarian roots." They would set up financial subsidies or scholarships for every child, so that each family could make educational choices leading to equity and fairness. Amid perplexity, they say, each family must have the economic force to select a proper education for its children. This is the focus of the book. It is also the focus of a proposed referendum in California that is likely to get the necessary petition signatures for the 1980 ballot.*

Coons and Sugarman differ from those who wish to abolish schools (Illich), promote vouchers (Jencks), or establish schools of choice (Fantini). What they want is an experiment in which each child receives a subsidy, to be spent on an educational program selected by the parents. Competitive forces would then take over to produce enough variety to meet every need. When transferred from a theoretical model to the world of reality, the problems are legion. Here are a few:

1. How do we equate dollars and need? Do we give a normal child $2,000 and an autistic child $25,000?

2. How do we determine an equitable subsidy for each child?

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*Not so.

3. How do we establish quality control for schools that receive the subsidies?

4. How can we justify greater diversity when the society is moving toward more consensus?

5. Where is the evidence that the public schools have not served us well?

This book makes an extremely important statement in Chapter 5, "Autonomy as the Goal: A Personal View." The authors declare that the basic purpose of education is "to achieve the highest degree of mental and moral self-determination and sensitivity which circumstance permits." Then they make the mistake of saying that such a condition can only be achieved by establishing education by choice--a shallow process for such a notable goal.

Mental and moral self-determination and sensitivity are achieved by hard work, rigorous demands on one's abilities, and astute use of one's opportunities. They are achieved through the totality of human existence, not by choice in one area. They are an accumulation of one's whole life, in and out of school. To presume that there is a strong causal link between having a choice of schools and the development of one's mental and moral qualities and sensitivity is simplistic and superficial.

Education by Choice assumes too much and presupposes that schools do more than they really do. Education is more comprehensive than public schools, and choice already exists in most of the arenas where children and adults learn. American public schools have a limited function in educating the young--and they are still the best system devised by any country. They are not perfect, of course, but creating more diversity among schools in an already diverse society could only lead to greater confusion and conflict.

This book promotes an idea whose time has passed. The American people yearn for consensus and security in a time of transition and strain. Had it been written in 1973 instead of 1978, *Education by Choice* would have been a best seller. Today it is useful as a credit toward advancement to the rank of full professor.

Review #2: A Reply to the Thomas Review

By Professor Roy Lechtreck*

The vitriolic attack on independent schools by the public school establishment leaves one wondering if the opposition has so few arguments that they can only resort to invective. The concluding paragraph of the preceding review by Supt. Thomas makes the snide comment that the book is useless except for credit "toward advancement to the rank of full professor." The author of the review is listed in the April, 1979, issue of *Phi Delta Kappan* as the superintendent of schools in Salt Lake City, and an editorial consultant of the magazine which bills itself as the "journal of the professional fraternity in education." He also wrote a few other reviews and articles for the journal's Volume 60 (1978-1979). Hence, he must be considered a member of the educational bureaucracy, and not dismissed as just another clerk defending his turf, to whom nobody listens.

In the first paragraph of the review, Thomas condemns Coons and Sugarman for believing in pluralism. Thomas contends that there is an "historical ethos" in American education that separates our nation from most other countries in the world. Apparently he thinks that it is self-evident that this difference exists and is good. Of course, he ignores the legal protection afforded pluralism in *Pierce*, *Yoder*, *Barnette*, *Tinker*, and many other Supreme Court cases. The high court has repeatedly held that schools must not force the orthodox creed on its students. Schools should promote those values necessary for a stable society, but since this is done in other countries as well, Thomas obviously wants the schools here to do more. Would it be improper to suggest this smacks of brainwashing? Who is the keeper of this ethos? If war is too important to be left to the generals, ideas are too important to be left to school superintendents!

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*Professor of Political Science, University of Montevallo.

He ridicules the argument of Coons and Sugarman by saying that they believe that "the family is in the best position to make educational choices within the menagerie." It seems that he feels that children are little animals and that only the "experts" have the right to try to tame them! "Menagerie" is his word, not mine!

This expert then tells us that there are at least five questions *Education By Choice* does not answer. The third is, "How do we establish quality controls for schools that receive the subsidies?" Good question. "How do we establish quality controls for public schools that already receive our tax dollars?" is a still better one! Anyone who thinks ghetto schools and schools in the black belt have much quality inside them surely is living on another planet. And I could name many suburban schools that are almost as bad.

The fourth "question" is "How can we justify greater diversity when the society is moving toward more consensus?" But what is an educated person anyway? A conformist? One who never questions what those in authority tell him? One who never dreams and thus can never work for a better society? And the very demand for more and more independent schools proves that we are not moving towards more consensus.

The fifth "question" is just plain appalling. "Where," Thomas asks, "is the evidence that the public schools have not served us well?" When our country is constantly setting new records in mental illness, divorce, and crime, when we have inflation and unemployment simultaneously, when there is an energy and pollution problem, when the country has lost ground to Communism at a terrific rate, how can someone claim our schools work? Reports on the present inadequacy of our public schools are legion. These things need not have happened, and it is narrow-minded to say that education shares no responsibility for these events. If schools are not to make us think, or solve our problems, why have them? Just to let the parents be free of their children for six or seven hours a day?

Consistency, of course, is not something to be found in Thomas' review. In the second-last paragraph he says our society is diverse after denying it earlier. And in the same paragraph he says public schools have "a limited function in educating the young." If so, why does he make such a fuss in order to maintain his turf? The people who choose independent schools obviously want the schools to have an important function in society. As the saying goes, "A child's mind is a precious thing to waste." But the Salt Lake City superintendent, apparently, is not really concerned.

Review #3: About the Book

By Daniel D. McGarry*

This well-written scholarly work advocates state provision of tuition vouchers usable in public or private schools of family choice. A comprehensive, persuasive explanation and argument for the sort of vouchers that are currently being promoted by Coons and Sugarman in California is presented. The authors are Professors in the Law School of the University of California at Berkeley. They already have had considerable experience regarding the reform of public financing of education, both in writing their book, Private Wealth and Public Education (1970), and in arguing the famous Serrano case in California (1976), whose decisions prohibited making spending for public education a function of wealth. A summary of high points of their presentation in Education by Choice follows:

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*Professor Emeritus, Saint Louis University

State financing of free choice in education has been advocated by many thinkers, including Thomas Paine, Adam Smith, John Stuart Mill, and more recently Milton Friedman, James Coleman, Christopher Jencks, Henry Levin, Denis Doyle, Stephen Arons, Theodore Sizer, Philip Witten, and others. The paramount consideration in education should be the best interest of the child. But the best interest of the child and the best ways of achieving this are debatable both in general and in particular cases. In this state of uncertainty, the welfare of children is best promoted by family choice, since parents are for their children the "best deciders." One of the principal purposes of education is to produce an autonomous person. Autonomy is promoted by family choice, parent-teacher cooperation in the instillation of moral values, and student participation in educational decisions. Democratic consensus is also promoted rather than impeded by allowance of tuition vouchers. For democratic consensus concerns basics, such as individual freedom, rather than some sort of universal uniformity, destructive of personal liberty. Evolutionary theory also upholds variety as an insurance for adaptations essential for survival and progress. While racial integration is secondary as compared to the best interests of children, the family choice of schools allowed by vouchers would promote voluntary integration. A voucher system also can and should include safeguards designed to prevent segregation.

Information concerning alternative schools would be provided by the government or under government supervision, as well as furnished by the schools themselves. Private as well as voluntary public schools would be eligible to receive vouchers. The government could make available to participating schools abandoned public schools (whose number is increasing) as well as provide loans for construction. Funds for necessary transportation would also be provided as required. Teaching credentials would not be necessary. There could be state regulations concerning school environments and enrollments. Tuition add-ons (above the state-provided vouchers) would be regulated, and the state would provide such add-ons for poorer families.

The authors point out that there have been successful precedents for tuition vouchers. Among such are the G.I. Bill, state scholarships (and grants) for higher education, and state funding of the private education of handicapped children, etc. In an appendix a Model Constitutional Amendment for family choice through initiative petition is provided.

Review of: Blum, Virgil C., Quest for Religious Freedom (Milwaukee, Wisconsin: Catholic League for Religious and Civil Rights, 1984), xi, 246 pp., $4.95.

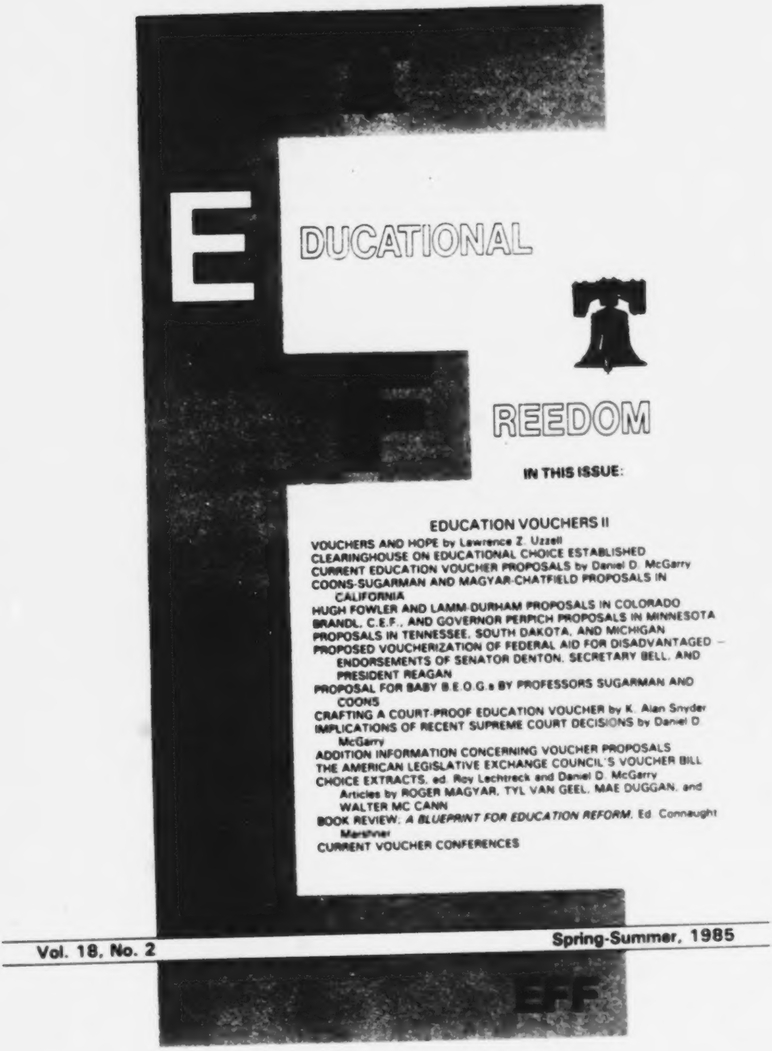
By Brother Edmond G. Drouin, F.I.C.
Walsh College, Canton, Ohio

In the preface and throughout the text of this battle-scarred little book, the author scores the double-standard "democracy" of citizens who allow secular-humanistic values full expression, but work to beat religious influence into the subdued marginality of American life. Quest for Religious Freedom is a collection of articles written for various publications. If the clash of arms rings through the text, it is simply because the author penned each line in the din of battle, wondering why Catholics do not more effectively organize to defend their basic freedoms as Jewish and Black citizens are doing. The book is a resounding call to action.

Father Blum's topics run a wide gamut, including: (a) voices from the media and the political community, cheering when churchmen champion popular causes or when a Catholic presidential candidate answers the questions of ministers, but yelling violation of the separation of church and state when Catholic bishops express their views on matters affecting the religious and moral issues of American life; (b) the constant organized support of groups like ACLU and Americans United for the Separation of Church and State (and others) for public policies which violate the most basic religious freedoms of citizens who disagree with them; (c) the misrepresentation of the abortion and education issues; (d) hostility toward the quest for fairness in school finance for students attending nongovernment schools; (e) the short shirft given to freedom of religious expression in public schools; (f) specific episodes like Jimmy Carter's promise to assist nonpublic schools and his subsequent opposition to all assistance programs; (g) the inconsistency of Catholic politicians who preach that they may not impose their views on others, but allow others to impose their views on them and on the nation, and then even vote public funds for services which violate the conscience of a wide sector of the American public.

Whether or not one agrees with every argument and every expression of the author, one cannot fail to realize the obvious: religious discrimination against Catholics (and other religiously committed citizens) is more widespread and more insidious than current superficial reporting reveals. The nation is overwhelmingly sensitive to the claims of the secular conscience, but it is often insensitive to the claims of the religious conscience.

One vector runs through these essays: those who fail to uphold their rights should not expect too much from the magnificent generalizations of the Constitution. There are rights which the nation does not gratuitously give (despite its promises); it yields them only to those who earn them through the political process. Remember women's suffrage, slavery, racial discrimination and the school buses for which all parents everywhere must pay, but which their children may not ride to nongovernment schools in many states. Father Blum reminds his readers that the price of freedom continues to be eternal vigilance and action.



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Vol. 18, No. 2 Spring-Summer, 1985

EFF

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Daniel D. McGarry
Executive Director

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VOUCHERS AND HOPE*

By Lawrence A. Uzzell

It is harder to be a forward than to be a goalie, for a forward has more decisions to make. Back when the pro-family movement was on the defensive, many of our strategic decisions were in effect made for us by the other side. They chose what to fight about -- ERA, Title IX -- and we tried to stop them. Now that we have the chance to pass laws of our own, we need to think more carefully about priorities.

In no field is this need clearer than in education. The statist, secularist agenda in education has been an obvious failure, and open-minded educators and legislators are more willing than ever to consider proposals for radical change.

As I see it, we have three basic choices in education strategy. First, we can allow ourselves to be recruited into the incrementalist reform movement, which has dominated the debate for most of the last two years. This movement concentrates on technical, managerial changes such as longer school years and merit pay for teachers. It shuns discussion of moral values and of basic structural change.

Second, we can try to enact laws and regulations that will force the public-school establishment -- against its will -- to behave in ways more in harmony with traditional morality. Examples include the numerous state laws which mandate the teaching of "the free enterprise system." As documented by Professor Herbert London's recent study, Why Are They Lying to Our Children?[1], these laws have utterly failed to prevent schools from adopting curricula which undermine the free enterprise philosophy at every opportunity.

Third, we can work for structural reforms that concede the right of secularist parents to send their children to schools that reflect their values - in return for their conceding our right to send our children to schools that reflect OUR values. The most comprehensive such reform is the voucher system.

Clearly, only the second and third of these strategies are worth taking seriously. The first merely co-opts us as soldiers in somebody else's army. But I believe that the third is considerably more worthwhile than the second. Here is why.

Benefits

As government regulators from Herod the King onward have discovered, centralized edicts are highly inefficient at changing the minds and hearts of men. Such edicts may well secure token compliance: the regulated fill out the forms and file the reports demanded by the regulator. But as soon as the regulator's back is turned, the regulated return to their old habits.

Imagine a state government where the legislators, the governor's office, and the state education agency have all come firmly under the control of pro-family activists. But at the same time, suppose that the overwhelming majority of the state's local school superintendents, school principals, and classroom teachers all continue to support anti-family programs: values clarification, feminist role models, and history courses that ignore religion. In such a state, the pro-family forces in the state capital might write all the pro-family laws and regulations they could think of. But as long as the day-to-day implementation of state policies remained in the hands of local officials who support the conventional philosophy of education, that philosophy would continue to be more powerful that the pro-family philosophy in the day-to-day lives of schoolchildren.

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[1] Stein and Day, Briarcliff Manor, N.Y., 1984.

Through both research and practical experience, we have learned a good deal during the last two decades about what happens when people like state officials and judges try to change schools from the outside. We now know that these outside forces for change have very little power to improve schools, but enormous power to foul things up.[2] On reflection, the reason for this is obvious: Education is not an industrial product, and schools cannot be run "from the top down" like assembly lines. For better or worse, the most important educators will always be the teachers and principals who are in close, daily contact with children.

Thus the only way to guarantee that your child gets an education in harmony with your moral and religious vision is to entrust him to teachers who genuinely share that vision. If his teachers are merely paying lip-service to some pro-family document released in a state office building two hundred miles away, you will eventually be disappointed.

It follows, then, that the super-centralized, super-regulatory strategy pursued for the last two decades by anti-family forces is not an appropriate strategy for the pro-family movement. Our movement's traditional, instinctive suspicion of centralized government controls is just as healthy and just as valuable as ever -- even when the people running the central government are our allies.

For putting parents back in charge of their own children's educations, our tool of choice should be the voucher system. Unlike other proposed reforms, the voucher system focuses on the philosophical issue which is the cornerstone of the entire debate: whose child is it, the parents' or the state's? Unlike other proposals, vouchers enable us to build a broad coalition by appealing to most Americans' innate sense of fairness and justice. Most Americans instinctively feel that Christians should not force-feed Christianity to the children of secularists, and that secularists should not force-feed secularism to the children of Christians. Vouchers, and only vouchers, satisfy that instinct.[3]

Vouchers make some parents uncomfortable because they seem to be contrary to an American tradition that goes back some 150 years: the neighborhood public school, controlled by democratically elected school board and closely attuned to the values of the local community.[4] But, in reality, vouchers offer twenty-firs century America's only hope of restoring schools that are at all like the traditional neighborhood schools.

---

[2] See, for example, Richard Weatherly and Michael Lipsky, "Street Level Bueaucrats and Institutional Innovation: Implementing Special Education Reform," Harvard Education Review, Vol.47 (1977), pages 171-197; Karl Weick, "Educational Organizations as Loosely Coupled Systems," Administrative Science Quaterly, Vol. 21 (1976), pages 1-18, Richard Elmore, Complexity and Control: What Legislators Can Do About Implementing Public Policy, National Institute of Education, Washington, August 1980; Peter Berger and Richard Neuhaus, To Empower People: Mediating Structures in Public Policy, American Enterprise Institute, Washington, 1977; Edward Wynne, "What Are the Courts Doing to Our Children?," The Public Interest, Spring 1981; Michael A. Rebell and Arthur R. Block, Education Policy Making and

This is true for two reasons. First, "community" in high-tech America is no longer just a geographical concept. When your next-door neighbors are Moslem immigrants and the folk across the street are Yuppie feminists, the "community" you must identify with is probably not your physical neighborhood. Instead, it is probably some group of people who share your deepest values and who keep up with you by car, telephone, and (soon) computer. This does not mean that you are hostile to your neighbors, but merely that you prefer to do the most important things in life, like praying in company with your own choosing rather than your realtor's.

Like it or not, the homogenous, small-town America of the nineteenth century is gone for good. Cable television systems with 99 channels to choose from recognize that fact; monopoly government schools do not.

Second, a combination of intended and unintedned political changes has transformed the local school board into the political Dodo bird of the 1980's. Eighty percent of the school boards that existed in 1900 have disappeared as small school districts have been consolidated into big ones. Today's districts sometimes contain scores of high schools and hundreds of elementary schools. Decision-making in these behemoth districts is dominated by professional staff members, who owe their allegiance not to the elected board members but to groups like the American Association of School Administrators and the Association for Supervision and Curriculum Development.

On another flank, the board members have seen more of their traditional powers taken over by the state government. Fifty years ago about 20 percent of the average school district's revenues came from the state capital; twenty years ago, about 40 percent; today, about 50 percent. State governments increasingly are the institutions that decide what textbooks a school buys, what courses it requires, and what standards it uses to hire and promote teachers.[5]

This flow of power from local boards to state government has been the most durable trend in education policy for several decades. It has continued under both Republican and Democrat administrations, and has actually accelerated during the Reagan years. There is not even a theoretical or Constitutional basis for reversing it, since legally the local school boards are the creatures of the state governments. Like it or not, as a practical matter twenty-first-century America will know only two types of school polity. One is the model that exists in the state of Hawaii, which has no local school boards and administers all schools directly from the state capital. The other is the voucher system. The pro-family movement should clearly prefer the latter.

---

the Courts: An Empirical Study of Judicial Activism, Chicago, 1982; Arthur E. Wise, Legislated Learning: The Bureaucratization of the American Classroom, Berkeley, Calif., 1979.

[3] As Sam Ericsson of the Christian Legal Society puts it, Christians should "do unto the children of non-Christian parents as you would have them do unto your children."

[4] In point of fact, public schools were never as traditional, as democratic, or as locally oriented as one would think from today's nostalgic memories. See Samuel L. Blumenfield, Is Public Education Necessary? Old Greenwich, Conn., 1981; and Diane Ravitch, The Great School Wars: New York City, 1805-1973, New York, 1974.

[5] See "The Vanishing Myth of Local Control, Phi Delta Kappan, Nov. 1984.

In contrast to all of its rivals, the voucher system has the kind of elegant simplicity that consumers love and bureaucrats hate. It does not allow decisions to be endlessly bargained and rebargained by every faction that thinks or pretends it might be affected: there is only one ultimate decision-maker, the parent. It does not treat schools as ends in themselves, entitled to government subsidies merely by existing: children and their education are the ends, schools are mere means to those ends, and thus the logical recipient of subsidies is the family. It does not subject the philosophical core or the administrative details of individual schools to external regulation: since the schools are not direct recipients of government aid, they do not get entangled in the government's web.

Statist Vulnerabilities

But at this last point the voucher system is potentially vulnerable to statist manipulation. Statist legislators might try to amend a voucher bill so as to erode or eliminate the distinction between direct and indirect subsidies. Even if they failed, statist bureaucrats or judges might succeed in perverting the legislation's original intent, as they have with so many other laws. After all, the statists have refined to a high art the tactic of lying -- lying about the contents of the Constitution and about the practices of Christian schools. In the period from 1978 to 1982 the statists succeeded in giving many Americans the impression that most Christian schools practice racial discrimination, and in convincing several Federal judges that the tax-exempt status of private schools is contingent on conformity with "public policy" -- whatever that may be.[6]

In its purest form the statist model assumes that all wealth belongs to the government, and thus the government is doing you a favor whenever it lets you keep any portion of your own income. The government may thus attach whatever conditions it likes to any tax deduction or tax credit. For example, it may demand that Christian schools adopt racial quotas as a condition for preserving their tax exempt status. This pure statist model also assumes that a subsidy's indirect beneficiaries may be regulated just like its direct beneficiaries. Every private college that enrolls veterans under the G.I. Bill and every corner grocery that accepts food stamp customers thus become a colony of the Federal empire. If applied consistently, this model would make the distinction between "public sector" and "private sector" obsolete.[7]

Congress and the Federal courts have not completely accepted this statist model. But, unfortunately, they have not completely rejected it, either. Just last year Congress came perilously close to passing a bill -- the so-called "Civil Rights Act of 1984" -- that would have incorporated some of the model's key tenets into Federal law.

There are two schools of thought among pro-family advocates: the pessimistic and the optimistic. The pessimists believe that the statist model is so deeply entrenched in Washington's thinking that its ultimate victory is only a matter of time. They believe that the statists are, and will continue to be, more tenacious and more adroit than pro-family leaders. In a sense they seem to concede that history is on the statists' side.

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[6] See Peter Skerry, "Christian Schools versus the I.R.S.," The Public Interest, Fall, 1980; and Jeremy Rabkin, "Behind the Tax-Exempt School Debate," The Public Interest, Summer, 1982.

[7] See Ronald L. Trowbridge, "H.E.W.'s Conduit Theory: Toward the Abolition of Privacy," Imprimis, Hillsdale and Mich., July, 1981; Ronald Reagan, "Federal Harassment Worsening," Denver Post, January 7, 1977.

The optimists deny that history is automatically on anybody's side, whether for good or for evil. Their motto is, "Pray as if everything depended on God, and work as if everything depended on yourself." They believe that the art of winning elections and running governments is an art that they and their allies can learn and apply just as effectively as the statists can. They see the statist model not as an impregnable fortress, but as an exotic, hothouse growth -- radically alien to the American cultural and Constitutional tradition. They predict that in the twenty-first century this model will be remembered only by scholars specializing in that extremely limited and extremely bizarre historical period, the 1960's and 1970's.

Though even most of the optimists do not realize it, the turning point in this struggle may already be behind us. It came in October of 1984, when Senator Orrin Hatch (R-Utah) won his lonely and valiant fight to keep the so-called "Civil Rights Act of 1984" from becoming law. This victory was a milestone for two reasons. It was the first time that the education establishment failed to get its way on an issue by simply re-labeling it as a "civil rights" issue. And it was the first time that the statists found that they could not tap into a "civil rights" issue for demagogic purposes during an election campaign: Walter Mondale barely mentioned the subject. The contrast with the Reagan Administration's 1982 embarrassment over the Bob Jones University case could not have been more dramatic.

The overwhelming majority of American citizens are militantly against racial discrimination, and militantly in favor of parental rights and educational freedom. The statists' last hope of protecting the public-school monopoly is to create the impression that monopoly is the only way to prevent racial discrimination. But as time goes by, this hope becomes more and more threadbare: it is becoming painfully obvious that, on the average, private schools are BETTER integrated than public schools. As time goes by, it will get harder and harder for the statists to use this issue without being hoisted by their own petard. The so-called "Civil Rights Act of 1984" was probably their last good chance, and they lost.

Once we put the statist model of the 1960's and 1970's behind us, an unregulated voucher system will seem like the most natural thing in the world. It has close parallels in other government programs that have existed for a long, long time. There is the Northwest Ordinance, older than the Constitution itself: a system of block grants, with no strings attached, which local communities on the frontier could spend in any way they chose as long as they spent them for the purpose of education. There is the G.I. Bill of the period after the Second World War: its beneficiaries have included church seminarians preparing for the ministry or priesthood. There is the tax-deductible status of contributions to churches, schools, and charities, with no more government oversight than necessary to prevent tax fraud. More recently there are the student-aid programs of the U.S. Office of Postsecondary Education and the new housing vouchers of the Department of Housing and Urban Development.

Obviously any voucher legislation should expressly declare that private schools are not government grantees and are therefore not subject to government regulation. The tuition tax credit and voucher bills proposed by the White House in 1982 and 1983 meet that test. Pro-family activists should work for similar provisions in state or local legislation.

Positive Developments

Surprisingly, the state level of government is precisely where some of the most interesting things are happening at the beginning of 1985. The reason this is a surprise is that the last two years have seen a concerted and largely successful effort by the education establishment to use state governments as tools for further centralization, not freedom. But in December 1984 and January 1985, three state governors endorsed the concept of vouchers. Two of these -- Lamar Alexander of Tennessee and Rudy Perpich of Minnesota -- are not yet willing to let private school families be eligible, but their new initiatives are still major steps in the right direction.

The third governor, Ricahrd Lamm of Colorado, proposes what he calls a "Second Chance Program," whereby any student who has failed in the public schools could get a voucher to attend the public or private school of his choice. In order to qualify, a student would have to meet one of the following criteria: be a drop-out; have a record of chronic absenteeism; be two years behind in basic skills; be a teen-age parent; be an abuser of alcohol or drugs; or be a juvenile delinquent. As Gov. Lamm put it, "People who claim they can do better than the public schools with these troubled kids should have the chance to set up their own schools and try."

The Lamm proposal might well become a stepping-stone toward an across-the-board voucher system for all students. For that very reason, pro-family advocates should welcome it and work to improve it. That is precisely what former State Senator Hugh Fowler, proponent of a more thorough-going voucher plan drafted last year, plans to do.[8]

In Minnesota, the best proposal is not Gov. Perpich's but the one promoted by teacher-author-activist Joe Nathan. Dr. Nathan's voucher scheme would be available to all students in all schools, but would be structured in such a way as to discriminate a little bit in favor of the poor.[9]

At the federal level, the Reagan Administration is pushing its Equal Educational Opportunity Act. This proposal would turn the Department of Education's unsuccessful, $3 billion Chapter One program into a voucher system for disadvantaged children.[10] And several Republican House members reportedly will offer a voucher plan for the poor as part of their own civil-rights package.

Just a few years ago, not one of these proposals would have been taken seriously. They are still far from passage. But the moral and intellectual bankruptcy of the existing school monopoly is bound to make them attractive to almost anyone who does not have a vested ideological interest in the status quo.

---

[8] See Education Week, January 16, 1985.

[9] For more information write to Public School Incentives, 1885 University Ave., St. Paul, Minn. 55104; or read Joe Nathan, Free to Teach: Achieving Equity and Excellence in Schools, Winston Press, Minneapolis, Minn., 1984.

[10] See Lawrence A. Uzzell, "Robin Hood Goes to School: The Case for a Federal Voucher Program," in Connaught Marshner, ed., A Blueprint for Education Reform, The Free Congress Foundation," Washington, D.C.,1984.

CLEARINGHOUSE ON EDUCATIONAL CHOICE ESTABLISHED

By Daniel D. McGarry

A national organization, The Clearinghouse on Educational Choice, with headquarters in the Washington, D.C. area, has been established. Purposes of the Clearinghouse include publicizing and promoting vouchers, collecting and distributing information concerning current voucher movements as well as vouchers in general, and,as far as possible, assisting voucher movements in various particular states.

The idea for the Clearinghouse was born at a Voucher Planning Conference sponsored by the Thos. J. White Educational Foundation and held in Greater St. Louis on June 24th, 1985. The Thos. J. White Educational Foundation was assisted by Citizens for Educational Freedom in setting up the Conference. Numerous voucher leaders throughout the country were invited to the Conference and a date acceptable to the greatest number of potential conferees was set. Leaders of voucher movements from eleven states and the District of Columbia attended. A list of those in attendance, together with one of additional supportive invitees unable to attend on the given date, is provided. The general chairman of the meeting was Thos. J. White, while Mrs. Mae Duggan and Robert J. Wittmann presided.

The status of current Voucher movements and information concerning organizations supporting vouchers was presented by their representatives. Reports were given concerning voucher movements in California, Colorado, Minnesota, Florida, Louisiana, Iowa, Kansas, and Michigan. Among organizations represented, in addition to the sponsors, were the Education Voucher Institute, the National Center for Privatization, the Institute for Independent Education, the Louisiana Association for Business and Industry, the Sequoia Institute, the Institute for Liberty and Community, and the U.S. Department of Education.

Among topics discussed at the Conference were leading reasons for espousing vouchers, potential sources of support for vouchers, ways of educating the public concerning vouchers, leading opponents of vouchers, and the financing of voucher movements. Among points made by participants were: a leading reason for supporting vouchers is the continuing improvement of all education; getting vouchers on the ballot by initiative and then getting votes costs money; direct mail and bottom-up marketing should be used along with board room fundraising and top-down marketing; voucherization of the federal Education Consolidation and Improvement Act should be tried and supported; a national newsletter and a voucher handbook would be very helpful; professional consultants should be hired to help design and implement voucher campaigns; strenuous opposition is to be expected from vested interests, including the educational establishment; efforts must be made to obtain the backing of well known leaders and to have the issue aired in the media; the main effort must be directed to winning over potential supporters rather than trying to convince natural opponents; and general literature on vouchers usable anywhere in any state is needed.

Voucher leaders attending the Conference decided to establish a voucher clearinghouse with headquarters in the Washington, D.C. area to be operative with the Citizens for Educational Freedom National office. Thos. J. White offered to provide $50,000 in matching grants for the Clearinghouse, with $20,000 of this as initial "seed money" to get things started. Subsequently, Thomas R. Ascik, Esq., a lawyer formerly with the U.S. Dept. of Education, was engaged as Executive Director for the Clearinghouse, and the latter's headquarters were established at 1611 N. Kent St., #805, Arlington, VA, 22209, phone: (703)243-2211. Initial efforts of the Executive Director are mainly aimed at raising funds to insure continued existence. A Board of Directors and Officers have been chosen. The main activity of the Clearinghouse in the first year will be to publish a national newsletter on educational choice, for which an editorial advisory board has been established, many of whose members attended the Planning Conference.

At the Conference in St. Louis, representatives of the Education Voucher Institute indicated their willingness to cooperate with a voucher movement once it was actively underway in a given state, as also did representatives of the National Center for Privatization. Such is also an intention of the Clearinghouse on Educational Choice, as far as its means permit.

Dr. Gordon Schultz announced at the Conference that the National Center for Privatization is holding a Family Choice in Education Conference stressing vouchers at the Broadview Hotel in Wichita, Kansas from September 30th to October 2nd. Members of the Voucher Conference were invited to attend, and if they so desired, to hold a board meeting during the general Conference.

VOUCHER PLANNING CONFERENCE
ATTENDEES

Mr. Bob Baldwin, Education Policy Consultant, Washington, D.C.
Dr. William R. Coats, Ph.D., Pres., Education Voucher Institute, Southfield, MI
Mr. & Mrs. Martin Duggan (Mae Duggan is Exec. Director of the Thos. J. White Fdtn.)
Mrs. Jackie Ducote, Louisiana Chamber of Commerce, Baton Rouge, LA
Mr. Hugh C. Fowler, Regent, Univ. of Colorado, Denver, CO
Mr. Peter Johnston, Parents' Rights in Choosing Education, Des Moines, Iowa
Mr. Charles Karelis, U.S. Dept. of Education, Washington, D.C.
Mr. Jack Klenk, U.S. Dept. of Education, Washington, D.C.
Mrs. Marilyn Lundy, President, Citizens for Educational Freedom, Detroit, MI
Mr. Robert Lytle, Chairman, Education Voucher Institute, Farmington, MI
Mr. Roger Magyar, Sequoia Institute, Sacramento, CA
Mr. John McClaughry, Institute for Liberty and Community, Kirby, VT
Dr. and Mrs. Daniel McGarry (Dr. McGarry is Research Director, Thos. J. White Fdtn.)
Sister Renee Oliver, Exec. Director, Citizens for Educational Freedom, Wash., D.C.
Mrs. Joan Ratteray, Institute for Independent Education, Washington, D.C.
Dr. and Mrs. Gordon Schultz, National Center for Privatization, Wichita, KS
Dr. Paul Steinman, Prof. of Education, Webster Univ., St. Louis, MO
Dr. Fred Stopsky, Prof. of Education, Webster Univ., St. Louis, MO
Mr. Thomas Tancredo, Region VII Representative, U.S. Dept. of Eduation, Denver, CO
Mrs. Emmy Treichel, Chairman, Minnesota Federation of C.E.F., St. Paul, MN
Mr. Lawrence Uzzell, Past Pres., LEARN Foundation, Washington, D.C.
Mr. Thomas Walters, Campaign Coordinator, Coons-Sugarman Initiative, Altadena, CA
Mr. Thos. J. White, Chairman, Thos. J. White Foundation, St. Louis, MO

ADDITIONAL SUPPORTIVE INVITEES
UNABLE TO ATTEND ON THE GIVEN DATE

Rev. Virgil C. Blum, S.J., Pres., Catholic League for Religious & Civil Rights, Wis.
Mr. John Brandl, Prof. of Economics, Univ. Of Minnesota at Minneapolis
Mr. Emile Comar, Exec. Director, Louisiana Catholic Conference, New Orleans, LA
Dr. Arthur Conrad, The Heritage Foundation, Inc., Hinsdale, IL
Prof. Jack Coons, Prof. of Law, Univ. of California at Berkeley
Mrs. Mary Ferrick, St. Louis, MO
Dr. Eugene Linse, Exec. Dir., Social Ministries, Lutheran Church-MO Synod, St. Louis
Mr. Thomas Roeser, Vice-Pres. for Govt. Relations, Quaker Oats Co., Chicago, IL

Dr. Dennis Doyle, American Enterprise Institute, Washington, D.C.
Patricia M. Lines, Education Commission of the States, Denver, CO
Mr. James Skillen, Exec. Director, Assoc. for Public Justice, Washington, D.C.
Dr. Charles O'Malley, Office of Private Education,U.S. Dept. of Education, Wash., D.C.
Prof. Stephen Sugarman, Prof. of Law, Univ. of California at Berkeley

CURRENT EDUCATION VOUCHER PROPOSALS

By Daniel D. McGarry

Several proposals for education vouchers on both state and federal levels are currently afloat in the United States.[1] These include at least two voucher proposals in California, two in Colorado, three in Minnesota, one each in Tennessee and South Dakota, and two on a national level.

In California, which has taken the lead in this movement, Law Professors John Coons and Stephen Sugarman have been actively promoting liberal, regulated education vouchers usable in private as well as public schools since 1978. These vouchers would come with several equalizing government regulations. In the same state of California, Professor Roger Magyar and real estate developer Leroy Chatfield (successors to inventor Jack Hickey and Professor Canfield) are supporting conservative education vouchers with minimal government regulations, applicable to both public and private schools.

Education vouchers applicable in private as well as public schools are also advocated in Colorado and Minnesota. In Colorado, University of Colorado Regent Hugh Fowler, a former State Senator, heads a movement for general vouchers (in which work he has been assisted by Robert Lytle). In Minnesota State Representative John Brandl has introduced legislation which would provide similar vouchers, but would be limited to low income students. Citizens for Educational Freedom in Minnesota are meanwhile proposing legislation to establish voucher demonstrations in six school districts.

Limited voucher proposals restricted to public schools are supported by Governors Rudy Perpich of Minnesota, Lamar Alexander of Tennessee, and William Janklow of South Dakota. Governor Richard Lamm in Colorado advocates vouchers applicable in private as well as public schools, but limited to students with special disabilities such as drug addiction as well as dropout students.

An example of a simple conservative voucher bill applicable to both types of schools with minimal government regulations is suggested by the American Legislative Exchage Council.

On the federal level, President Reagan and others favor education assistance to disadvantaged students by means of general vouchers (i.e., voucherization of Chapter I of the Education Consolidation and Improvement Act, formerly Title I of the E.S.E.A.); while Senator Moynihan and others advocate extension of Basic Educational Opportunity Grants (BEOGs) now applicable to higher education,so as to include elementary and secondary education.

Organizations strongly supportive of education vouchers include Citizens for Education Freedom[2], whose President is Mrs. Marilyn Lundy, and the Education Voucher Institute, whose President is Mr. Robert Lytle.[3]

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[1] The Editor writes of voucher proposals known to him as of May, 1985.

[2] The national office of Citizens for Educational Freedom is located at 400 First St., N.W., Washington, D.C. 20001.

[3] Mr. Lytle's address is P.O. Box 423, Farmington, MI 48074.

THE COONS-SUGARMAN EDUCATION VOUCHER PROPOSAL IN CALIFORNIA

In California, Professors John Coons and Stephen Sugarman of the University of California Law School (at Berkeley) have been campaigning for education vouchers since 1977 (after successfully arguing for the *Serrano* decision of 1976). They have been prevented from bringing their proposed initiative to a statewide vote by their failure to date to obtain a consensus among needed supporters as well as by the difficulty and cost of obtaining large numbers of signatures and associated expenses necessary to put the measure on the ballot with a reasonable hope for success.

The Coons-Sugarman initiative has gone through several revisions in order to satisfy their general objectives as well as reconcile various interests. As it stands, the initiative is a liberal type of legislation with various government regulations designed in the interests of equalization of educational opportunity. The Coons-Sugarman vouchers would be usable at private as well as public schools for up to 90% of the adjusted per-pupil cost of students enrolled in public schools.[1] The existing public school system would remain alongside the voluntary system of voucher schools, in which private as well as public schools could participate. The initiative includes regulations to protect both minorities and the less affluent, including prohibitions against racial or sexual discrimination and the requirement that 25% of new admissions be reserved for children of lower income families.

Concerning the Coons-Sugarman proposal, Professor Coons writes (in a letter of Nov. 28, 1984 addressed to the Editor):

"Our proposal for a state constitutional initiative in California has gone through roughly 30 revisions since June of 1978. In 1979 a signature drive to place it on the ballot was unsuccessful. In 1981 and 1983 signature drives were aborted at the request of major participants who felt their constituents were still politically unprepared. Throughout these years educational and organizational work has proceeded.

"There is presently (1984-1985) new reason to hope for a coalition of ideological, ethnic, religious and professional groups supporting our proposal. Whether this will actually ripen into an effective effort will be determined over the next year. If it does not, the issue will nevertheless be kept simmering by its proponents. We cannot discount the possibility that someone or some organization will at some point come forward with sufficient financial support to make an organizational effort sensible. California initiative drives can be based simply upon the capacity to pay. It is not our intention, however, to buy our way onto the ballot; even if money becomes available, the effort should be broadly grounded in a strong statewide (or even national) organization. Of course, such an organization will itself require very substantial funding."

TEXT OF THE COONS-SUGARMAN EDUCATION VOUCHER INITIATIVE:

The following section shall be added to Article IX of the California Constitution:

Section 17. Purpose. The people of California have adopted this section to improve the quality and efficiency of schools, to maximize the educational opportunities of all children, and to increase the authority of parents and teachers.

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[1] Adjusted for inflation.

(1) VOUCHER SCHOOLS

(a) Classes of Schools. In addition to the Public Schools and Private Schools,presently recognized by law there shall be two classes of schools together known as Voucher Schools.

(b) Private Voucher Schools. Private Voucher Schools are private schools entitled to redeem state educational vouchers.

(c) Public Voucher Schools. Public Voucher Schools are schools organized as public corporations entitled to redeem such vouchers.

School districts, community colleges and public universitites may establish Public Voucher Schools. Each shall be a public corporation governed by rules fixed by the organzing authority at the time of incorporation. Under this article such schools are common schools, and section 6 shall not limit their formation. Except as stated in this section, Public Vouhcer Schools shall operate according to the laws affecting Private Voucher Schools.

(d) Limits on Regulation of Voucher Schools. Voucher Schools shall be entitled to redeem the state vouchers of their students upon filing a statement indicating satisfaction of those requirements for hiring and employment, for curriculum and for facilities which applied to private schools on July 1, 1982; the Legislature may not augment such requirements. No school shall lose eligibility to redeem vouchers except upon proof of substantial violation of this section after notice and opportunity to defend.

No Voucher School may advocate unlawful behavior or expound the inferiority of either sex or of any race nor deliberately provide false or misleading information respecting the school. Each shall be subject to reasonable requirements of disclosure. The Legislature may set reasonable standards of competence for diplomas.

No school shall be ineligible to redeem state vouchers because it teachers moral or social values, philosophy, or religion, but religion may not be taught in Public Schools or Public Voucher Schools; a curriculum may be required, but no pupil shall be compelled to profess ideological belief or activity to participate in ceremony symbolic of belief.

(2) ADMISSIONS

(a) Rules for Admission. A Voucher School may set enrollment and select students by criteria valid under the federal constitution other than physical handicap, national origin, and place of residence within the state.

(b) Protecting Low Income Families. Each Voucher School shall reserve twenty-five percent of each year's new admissions for timely applications from families with income lower than seventy-five percent of California families. If such applications are fewer than the places reserved, all shall be admitted and the balance of reserved places selected as in paragraph (a) of this subsection; if such applications exceed the reserved places, the school may select therefrom the reserved number.

(c) Choice Among Public Schools. When district assignments are complete, any district with space remaining in its public schools may open such space to children irrespective of residence, giving reasonable preference to children described in (b). Children so enrolled shall be deemed residents of the receiving district for fiscal purposes.

(3) FINANCE

(a) A Child's Right to a Voucher. Every child of school age residing in California is entitled annually without charge to a state voucher redeemable by Voucher Schools and adequate for a thorough education as defined by law.

(b) Limits on Tuition. Voucher Schools shall accept vouchers from low income families as full payment for educational and related services. Charges to others shall be consistent with the family's ability to pay.

(c) Setting the Value of Vouchers. The average voucher shall be worth approximately ninety percent of the average public cost per pupil of pupils enrolled in Public Schools. Public cost here and subsection (3)(d) shall mean every cost to state and local government of maintaining elementary and secondary education in the relevant year as determined by the Department of Finance according to law; it shall not include the costs of funding employee retirement benefits which are unfunded on July 3, 1984.

Vouchers shall be equal for every child of similar circumstance differing only by factors determined to be reasonable by the Legislature. They shall reflect the educational cost attributable to physical handicap and learning disability, and for children of low income families, the cost of reasonable transportation. Except for schools in which parents or other relatives are principal instructors of their own children, no voucher shall be less than eighty percent of the average voucher for children of similar grade level. A nonprofit Private Voucher School shall use income from vouchers solely for the provision of educational goods, services, and facilities for its students. The Legislature shall provide for an appropriate division of the voucher in the case of transfers. Nothing required or permitted by this section shall be deemed to repeal or conflict with section 8 of this article or section 5 of Article XVI.

(d) Limits on Cost. For school years 1985-85 through 1990-91 the total public cost of elementary and secondary education shall not exceed that of 1983-84 adjusted for changes in average personal income and total school age population. The Controller shall authorize no payment in violation of this sub-section.

(e) School Building Aid. Excess space in Public Schools shall be available to Voucher Schools for rental at actual cost. Where appropriate and necessary, community groups shall be assisted in the founding of Voucher Schools by guaranteed loans and similar aids.

(4) RIGHTS

(a) Fair Treatment of Students. A pupil subject to compulsory education who attends a Voucher School may continue therein unless she or he is deriving no substantial academic benefit or is responsible for serious or habitual misconduct related to school. With fair notice and procedures each school may set and enforce a code of conduct and discipline and regulate its academic dismissals. No pupil enrolled in any such school shall suffer discrimination on the basis of race, religion, gender or national origin.

(b) Consumer Information. The Legislature shall assure provision of adequate information about Voucher Schools through souces independent of any school or school authority. Parents with special information needs shall receive a grant redeemable for the services of independent education counsellors.

(5) TRANSITIONAL PROVISION

The Legislature shall promptly implement this section, ensuring full eligibility for vouchers of at least one-half of all pupils no later than the school year 1985-86 and all pupils in 1986-87.

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THE MAGYAR-CHATFIELD EDUCATION VOUCHER PROPOSAL IN CALIFORNIA

Alongside the more liberal and more regulated as well as more tolerant Coons-Sugarman Education Voucher Proposal in California is the more conservative, more thorough, and less government-regulated Magyar-Chatfield Education Voucher Proposal. The latter is considered to be the successor of a somewhat similar conservative Hickey-Canfield proposal currently inactive. The Hickey-Canfield Proposal was promoted with Inventor Jack Hickey and Professor Canfield as leaders; whereas leaders of the current proposal are Professor Roger Magyar, currently with the Sequoia Foundation, and real estate developer Leroy Chatfield.

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THE FOWLER EDUCATION VOUCHER PROPOSAL IN COLORADO

A movement on behalf of an initiative amendment which would replace the present public education system in Colorado with state-provided vouchers for education expenses is led by Hugh Fowler. Fowler is a former State Senator as well as a Regent of the University of Colorado.

The Fowler Initiative Amendment to the Colorado Constitution would apportion state-provided education funds for elementary and secondary education among parents or guardians for the education of their children in the school of their choice, public or private. The only eligibility requirement for schools would be that they be accredited and not "pervasively sectarian."

The proposed constitutional amendment includes a requirement that all high school students participate in a "core curriculum" that includes three credits each of Mathematics, Science, and Social Studies, as well as four credits of English. The amendment also requires that teachers be compensated according to their performance ("merit pay").

Required signatures for the proposal were being gathered by supporters in 1985 when the (public) Colorado Education Association charged that the title assigned by the state was inadequate. The Colorado Supreme Court decided on behalf of plaintiffs and the signature gathering process had to be started all over again. Sufficient signatures were not obtained in the limited time period that remained. Supporters are continuing to work for the Amendment.

TEXT OF THE PROPOSED FOWLER INITIATIVE AMENDMENT

Be it enacted by the people of the State of Colorado, to wit:

Article IX of the Constitution of the State of Colorado is hereby amended by the addition of the following new sections;

Section A. To be effective with the 1986-87 school year, the General Assembly shall provide by law for the establishment of a core curriculum in the public secondary schools, and only those students successfully completing said curriculum shall be awarded a diploma upon graduation from said schools. The core curriculum must include, but is not limited to, in Carnegie credits or their equivalent: English, 4 credits; Mathematics, 3 credits; Science, 3 credits; Social Studies, 3 credits, to include a comprehensive presentation of the free enterprise system and the responsibilities of a citizen in a democratic republic. Said law shall provide that local boards of education may issue a certificate of attendance to those students graduated without having completed the said curriculum for any reason.

Section B. To be effective with the 1986-87 school year, the General Assembly shall provide by law that local boards of education shall pay teacher salaries according to compensation methods which regard the performance of teachers on the basis of their individual merit.

Section C. The provisions of Section 34 of Article V, and Section 7 of Article XI of this Constitution notwithstanding, to be effective with the 1986-87 school year, the General Assembly shall provide by law that all state funds appropriated for the support of general education in the elementary, secondary, and post-secondary schools shall be apportioned among all students required by law to be educated therein, and that each individual share of such apportionment shall be under the control of each student's parent or guardian, to the end that said parent or guardian shall have maximum opportunity to choose appropriate educational services for said student from among accredited resources including public schools and non-public schools which are not pervasively sectarian. The provisions of this section shall not impute to the State Board of Education or any other accrediting agency the authority to set accreditation standards more stringent or rigorous than those in place as of January 1, 1984.

THE LAMM-DURHAM EDUCATION VOUCHER PROPOSAL IN COLORADO

Governor Richard D. Lamm, who opposes the Fowler Voucher Proposal, and State Senator Steven Durham support a more limited voucher plan for Colorado. Although usable in private as well as public schools, the Lamm-Durham "Second Chance" vouchers would be limited to problem students such as drug-abusers and school dropouts. Such students would be allowed to choose to attend any public or private school in the state, and have their share of state educational funds allotted to the school of their choice.

THE BRANDL EDUCATION VOUCHER PROPOSAL IN MINNESOTA

In Minnesota, State Representative John Brandl, who is a Professor at the University of Minnesota, has proposed a bill which would provide education foundation assistance for students from low income families that would enable them to attend a public or private school of their choice. 100% of their share of state education foundation assistance would be allotted to public schools chosen and attended by such students and 80% for private schools so chosen. Low income is defined as up to 130% of the poverty income established by guidelines of the federal government.

TEXT OF THE BRANDL BILL:

Be it enacted by the legislature of the State of Minnesota:

Section 1. (Citation.)

Sections 1 to 9 may be cited as the "Minnesota Educational Quality and Equity Act of 1983."

Section 2. (Purpose.)

The purposes of the Minnesota Educational Quality and Equity Acto of 1983 are the following:

(1) to provide lower-income pupils with the freedom of choice in education which is available to middle- and upper-income pupils;

(2) to encourage socioeconomic integration by reducing inequity of access to nonpublic schools and by allowing attendance at public schools regardless of district boundaries;

(3) to make alternative learning environments available to pupils who do not perform satisfactorily in traditional schools;

(4) to determine the effect of economic incentives on the quality and delivery of educational services,

(5) to enlarge the role lower income families play in the education of their children;

(6) to reestablish confidence in the educational process by generating greater family commitment to the school of choice and creating responsive and professional relationships between educators and parents;

(7) to encourage educators to undertake the establishment of new schools which offer educational arrangements which clearly break with conventional practices;

(8) to encourage the development of curricula which appeal to the unique needs of pupils or which are based on differing educational theories; and

(9) to improve the quality of education offered to all pupils and particularly to lower-income pupils.

Sec. 3 (School Choice Program.)

Subdivision 1. (Choice of School.) Every eligible pupil in the state may choose to attend any public or eligible nonpublic school in the state by participating in the school choice program. An eligible pupil who does not participate in the school choice program shall be treated as are other pupils in the district who are not eligible.

Subd. 2. (Eligible Pupil.) A pupil is eligible to participate in the school choice program if the pupil is in grades K to 12 and the household income of the pupil's parent or guardian is at or below the income guideline specified in section 4. If the pupil is a ward of the court or a ward of the commissioner of public welfare, eligibility is presumed. The court shall appoint a guardian ad litem for each eligible pupil under its care and control. The commissioner of public welfare shall petition the court to appoint a guardian ad litem for each pupil under care and control of the commissioner. The guardian ad litem shall act in the best interests of the pupil with respect to the provisions of subdivision 1. The court may award reasonable fees for services rendered.

Subd. 3. (Public Schools.) An eligible pupil may apply to attend a participating public school whether or not the school is located in the pupil's district of residence.

Subd. 4. (Eligible Nonpublic School.) An eligible pupil may apply to attend a participating, eligible nonpublic school, whether or not the school is located in the pupil's district of residence. A nonpublic school is eligible to participate in the school choice program if it meets the following requirements:

(a) The school conforms to the provisions of Minnesota Statutes, chapter 363.

(b) The school agrees to charge pupils who attend pursuant to this program: no tuition, fees, or other charges of any kind if the pupil's household income is at or below 100 percent of the federal poverty guidelines referenced in section 4; substantially reduced tuition, fees, and other charges if the pupil's household income is between 100 and 130 percent of the federal poverty guidelines referenced in section 4.

(c) The school makes available summary data concerning the performance of its pupils and of the school according to rules established by the state board.

(d) The school complies with state and federal statutes and rules relating to education, the operation of schools, teachers, support staff, administrative staff, and the operation of its instructional and noninstructional programs and activities unless a variance to state rules has been granted by the state board pursuant to Minnesota Statutes, section 121.11, subdivision 12.

(e) The school makes an application to the board prior to December 1 requesting approval as an eligible nonpublic school for the next school year. The application shall state affirmatively that the school meets the requirements of clauses (a) through (d) and provides other evidence which the board may require.

If a nonpublic school does not meet the requirements of clauses (a) to (d) during a school year in which it participates in the school choice program, it shall not be eligible to participate in the school program for two school years following the year in which noncompliance occurs.

Sec. 4 (Income Guidelines.)

The income guidelines for determining eligibility shall be 130 percent of the applicable family size income level contained in the nonfarm income poverty guidelines prescribed by the United States office of management and budget, as adjusted annually.

Sec. 5. (Applications and Acceptance.)

Subdivision 1. Every public school, each eligible nonpublic school, and the state board of education shall make available application forms for participation in the school choice program.

Subd. 2. The parent or guardian of an eligible pupil shall submit a single application for participation in the school choice program by February 1 for enrollment the following fall. The parent or guardian shall indicate the first and second choice of school. The parent or guardian shall also indicate whether the pupil has siblings who are applying for participation in the program and whether, for the purposes of subdivision 4, clause (b), the pupil and siblings should be treated as a single applicant or individually. If more than one application is submitted for a pupil, all the applications made in behalf of that pupil will be void.

Subd. 3. The governing body of each public school and eligible nonpublic school shall determine annually the number of spaces in each grade available to be filled through this program. It may elect: not to accept any pupils participating in this program; to accept all pupils who apply to the school and make whatever arrangements are necessary to adequately accomodate them; or to accept a specific number of pupils. The school shall forward its determination to the board by January 2 and the board shall publish the information. However, at the time of a lottery provided in subdivision 4, the school may decide to accept for enrollment a greater number of pupils than it previously announced it would accept.

Subd. 4. A school shall determine admission of a pupil in the following manner.

(a) A school shall admit a pupil if: the school is a public school within the pupil's district of residence; the pupil attending the school to which application is made at the time of making the application; or, a sibling of the pupil has attended the school to which application is made. If the number of eligible pupils covered by this clause exceeds the number of spaces available, priority shall be given to the three different categories in the order given.

(b) If spaces are available after admitting pupils described in clause (a), the school shall accept pupils for admission up to the maximum number of spaces available. If the number of applications exceeds the number of remaining spaces available, the selection of pupils shall be made by lot.

The school of second choice shall follow the provisions of clauses (a) and (b) with respect to the spaces available, after acceptances of pupils who selected the school as their first choice.

Nothing herein shall be construed to affect the admissions criteria established by a nonpublic school for pupils who are not participants in the school choice program.

Subd. 5. The school shall notify each applicant by February 15 whether the pupil has been accepted for or denied admission. The parent or guardian shall notify the school by March 1 whether the pupil will attend the school. After receiving the notices from parents and guardians, if there are unfilled spaces, the school will accept additional pupils for admission. By March 7 the school shall forward applications from those who were not accepted to the school which is the pupil's second choice. A pupil not accepted by the school of the pupil's first or second choice by March 21 shall be enrolled in a public school within the pupil's district of residence.

Subd. 6. The school shall notify the superintendent of the district in which the pupil lives of the name and address of each pupil participating in the program and enrolled for the following fall. The enrollment of the pupil shall be final unless the pupil's parent or guardian provides evidence that denial of a change would result in substantial hardship.

Sec. 6. (Foundation Aid.)

Subdivision 1. (Public School Attendance in Another District.) If a pupil attends a public school in a district other than the district of residence, the state shall pay foundation aid to the district of attendance in an amount equal to the amount payable if the pupil resided in the district of attendance.

Subd. 2. (Attendance at a Nonpublic School.) For a pupil attending a nonpublic school, the state shall pay an amount equal to 80 percent of the foundation aid formula allowance according to the pupil units provided in sections 124.17 and 124. 2121, subdivision 3. The payment shall be sent to the nonpublic school, and the school shall apply the payment first to tuition, and next to fees, and in no event shall the payment exceed the amount chargeable for tuition and fees. Payment shall be made for the number of days the pupil is actually enrolled in and attending the school according to the provisions of section 124.11.

Sec. 7. (Transportation.)

Subdivision 1. (Attendance within District of Residence.) Notwithstanding the provisions of sections 123.78, the school district of a pupil's residence shall provide transportation for a pupil attending a public or eligible nonpublic school within the pupil's district of residence if the pupil is a secondary student and lives two miles or more from the school attended or if the pupil is an elementary student and lives one mile or more from the school attended.

Subd. 2. (Attendance Outside District of Residence.) Notwithstanding the provisions of section 123.78, subdivision 1a, the school district of a pupil's residence shall provide transportation to its district boundary for a pupil attending a public or eligible nonpublic school outside the pupil's district of residence if the pupil is a secondary student and lives two miles or more from the school attended or if the pupil is an elementary student and lives one mile or more from the school attended.

Subd. 3. Pursuant to section 123.39, the school district may contract with the parent or guardian of a pupil for transportation of the pupil.

Sec. 8. (Contract for Services.)
Notwithstanding state law to the contrary, a school district or eligible nonpublic school may contract for the services of individuals, groups, or institutions to provide instruction or learning experiences in an educational program supervised by a teacher employed by the school district or eligible nonpublic school for an amount of time not to exceed (a) five hours a week for in-class instruction or (b) 20 hours a week for learning experience offered outside the classroom.

Sec. 9. (Rules.)
The state board of education shall promulgate rules necessary to implement the Minnesota Educational Quality and Equity Act of 1983. Rules shall include provisions for the performance summary data required of nonpublic schools for eligibility; substantial hardship situations; mid-year pupil transfers; and the pupil application form.

THE C.E.F. EDUCATION VOUCHER PROPOSAL IN MINNESOTA

The Minnesota Citizens for Educational Freedom (Minn. C.E.F.) Federation has been supporting a proposal to set up six (6) voucher demonstration districts in the state. In these six districts, state educational tax funds would be allocated to public schools and eligible private schools according to student enrollment. Students and their parents would be allowed to choose a public or accredited private school, and each student's share of money provided by the state for the support of education would go to the school attended. A State Voucher Demonstration Grant Board would regulate, administer, and evaluate the program.

THE GOVERNOR PERPICH VOUCHER PROPOSAL IN MINNESOTA

A third voucher proposal in Minnesota is that of Governor Rudy Perpich. Governor Perpich has proposed limited "Access to Excellence" vouchers, which would apply only to public schools, and would be available only for eleventh and twelth grade students attending public schools of their choice.

EDUCATION VOUCHER PROPOSALS IN TENNESSEE, SOUTH DAKOTA, AND MICHIGAN

Limited education voucher programs have been proposed in Tennessee and South Dakota. A general proposal in Michigan was rejected when submitted to popular vote.

IN TENNESSEE

In Tennessee, Governor Lamar Alexander has recommended limited vouchers that would be restricted to public schools. According to this proposal, parents of children in public schools would be allowed to choose the school they wished their children to attend, and the schools attended would be compensated with each student's share of state education funds. The Tennessee Governor's voucher proposal is accordingly limited to public schools.

IN SOUTH DAKOTA

Governor William J. Janklow of South Dakota has proposed legislation that would establish a restricted voucher program in his state. The Janklow proposal would permit students in public high schools with less than 50 students to attend a neighboring high school and have their share of state education funding transferred to the latter. In addition to being limited to public schools, the South Dakota Governor's proposal is restricted to students in high schools with less than fifty students.

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THE UNSUCCESSFUL VOUCHER REFERENDUM IN MICHIGAN

In 1978 a referendum to establish a constitutional amendment to provide education vouchers usable in public or private schools of parental (or student) choice was defeated in Michigan despite strenuous efforts of proponents. The referendum was vigorously opposed by numerous powerful organizations, including the public school establishment (led by the Michigan Education Association) and Americans United for the Separation of Church and State. The latter provided political assistance and direction for the opposition.

The proposed Voucher Amendment in Michigan was "sweetened" by inclusion of a provision that local property taxes for education be eliminated and replaced by sales taxes. According to the amendment, each child's share of funds provided by the state for education was to be allotted to the public or accredited private school chosen and attended by the parents or students. Among leading proponents of the voucher amendment were Citizens for Educational Freedom led by Mrs. Marilyn Lundy, and Mr. Robert Lytle.

The political acumen and strategies of the entrenched opponents, together with the advantages of established mores and fears aroused by the prospect of changes enabled opponents to defeat the proposed referendum amendment by a large popular vote.

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PROPOSED VOUCHERIZATION OF FEDERAL AID FOR THE EDUCATION OF DISADVANTAGED CHILDREN

In 1983, legislation was introduced in Congress to voucherize application of Chapter I of the federal Educational Consolidation and Improvement Act (previously known as the federal Elementary and Secondary Education Act). The proposed legislation, known as "the Equal Educational Opportunity Act" would have allowed state and local educational agencies to use vouchers for the application of federal funds for the improved education of disadvantaged (financially and educationally deprived) children. The education vouchers provided for the education of such children could be applied by their parents for the improved education of their children in the public or private school of their choice.

The remarks of Senator Denton in presenting the bill, the endorsement by the then Secretary of Education Bell, and the points made by the Reagan administration in support of the bill are here presented.

SENATOR DENTON'S STATEMENT

The following are Senator Denton's comments as he introduced the Equal Educational Opportunity Act of 1983 in the Senate July 27, 1983:

I am pleased to introduce today the Equal Educational Opportunity Act of 1983, the administration's proposal to improve the teaching and learning of educationally-deprived children by expanding opportunities for their parents to choose schools that best meet their needs. The legislation also aims at fostering diversity and encouraging competition among school programs for educationally disadvantaged children.

Under the proposed education voucher plan, school districts that receive funds under Chapter I of the Education Consolidation and Improvement Act of 1981 could give vouchers to parents of educationally and financially deprived children in lieu of that voucher amount going directly to the child's school.

This would allow parents of diadvantaged children to select the education most appropriate for their children.

Currently, the parents of a child covered under the Chapter I program may participate only in programs available at the school serving the area in which the child resides. Yet there may be instances in which another school's services would be more appropriate for that child.

Under the voucher proposal, a state educational agency (SEA) or local educational agency (LEA) could elect to offer the voucher option and parents could apply to transfer a child to another school, either public or private. Federal funding in the form of a voucher would follow the child.

A local educational agency could convert all or part of its Chapter I compensatory program funding to a voucher program. Participation could be limited to certain grades, certain schools, or could be phased in over time, or a state educational agency could require all LEAs within its state to participate in the voucher plan. If vouchers are not required by the SEA, the decision to use Chapter I funds for vouchers would be for each LEA to make.

The voucher concept is not new to federal education. It has been used successfully for many years in other programs.

In fact, in higher education, we place great emphasis on choice and options. We not only permit but encourage access to both public and private schools. In some cases, students and their parents choose the institutions best suited to the student's needs, and the federal government provides funding in the form of a Pell grant. The GI bill operates on the same principle of choice.

I believe that the parents of educationally disadvantaged students should have the same options as those offered by the federal government in its higher education programs.

In order to avoid misconceptions that may arise about this legislation, let me add that the implementation of the voucher plan by LEAs must include continued provision of compensatory education programs for voucher recipients who remain in the schools of the LEA and for Chapter I students not selected for participation in the voucher program.

The bill would in no way lead, therefore, to the elimination of Chapter I compensatory services to the educationally disadvantaged.

In addition, the bill specificially states that a voucher cannot be used for a student to attend a school that maintains racially discriminatory policies.

This legislation contains fresh ideas on ways to improve our current compensatory education program by making it more responsive to the needs of those it serves.

It seeks to encourage competition and to provide new options for students, thus enhancing the diversity and the quality of American education.

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STATEMENT OF THE SECRETARY OF EDUCATION
T.H. Bell Before the Subcommittee on Elementary, Secondary and Vocational Education of the House Committee on Education and Labor

I am pleased to discuss the Equal Education Opportunity Act of 1983, the Administration's proposal to permit State and local educational agencies to utilize Chapter I of the Education Consolidation and Improvement Act for voucher purposes in situations where parents and local officials agree that such action would be desirable.

The Equal Education Opportunity Act is a simple measure intended to introduce more flexibility into the elementary and secondary education system of this country, and with the approval of school officials, to give the parents of educationally disadvantaged children the same choices that other parents have in selecting a different and more educationally advantageous school program for their children. This Administration believes that parents of disadvantaged children should be able to exercise effective choice -- through vouchers. The more options we can provide the better.

At the present time, a child eligible for Chapter I services is usually limited to the programs available at the particular school serving the area where the child resides. There may be situations where parents would prefer another school setting. Under our proposal, in circumstances where SEA or LEA officials elect to offer the voucher option, parents could apply to transfer to another school setting -- either another public or private school -- and the federal funds would be available for a voucher to follow the child. Chapter I funds would continue to be distributed to the local districts under the current program formula.

Under our proposal, a State educational agency could require that all LEAs within the State conduct a voucher program. If vouchers are not required by the SEA, the decision to use Chapter I funds for vouchers would be for each LEA to make. Subject to any minimum SEA requirement, local school boards and administrators would decide on how to structure the voucher program; whether to distribute vouchers to parents of all Chapter I children, to some subset of these parents (for example, parents of Chapter I children at particular grade levels), or only to parents of Chapter I children who request a voucher. In any case, the voucher could then be used for participation by the child in a compensatory education program operated within the school district, for enrollment at a public school located outside the local district. This voucher concept is not new to federal education aid. It has been used successfully for many years in other programs. Currently, through our student financial aid programs we place great emphasis on both access and choice in higher education. We not only permit, but we encourage options to select public or private institutions. Parents and students are given a choice among institutions, and the Federal funds are made available for a voucher in the form of a Pell grant. The G.I. bill has also long operated on the basis of student choice among institutions. We seek similar opportunities for the use of funds for educationally disadvantaged elementary and secondary students that the Federal government has offered many years for use of its funds in higher education.

In addition, we now provide federal assistance for individually placed handicapped children in the best educational setting. The choices available include placement in private schools, if it is determined that a private school would be the appropriate educational setting for the child. Federal funds may be used to support individualized education outside the local school. In providing additional options, our proposal would offer some of the benefits to disadvantaged children under Chapter I similar to those we provide to handicapped children under P. L. 94-142.

A description of two additional provisions may answer some of your questions about this bill. First, the bill would require that LEAs implementing the voucher option continue to provide compensatory education programs for voucher recipients who remain in the schools of the LEA and for Chapter 1 students not selected for participation in the voucher program. Thus the bill would not be a vehicle for elimination of Chapter I compensatory education services to the disadvantaged. Second, the bill specifically states that a voucher could not be used to attend a school that maintains racially discriminatory policies. A set of procedures and remedies, comparable to those in the Administration's tuition tax credit bill, are set forth to ensure that this prohibition would be effective, Thus it is simply not true that vouchers would be used to increase enrollments at private schools that discriminate, on the basis of race, color, or national origin, in admissions, financial aid, or other policies.

I believe that enactment of the Equal Educational Opportunity Act would lead to a significant improvement in educational opportunites for educationally deprived children by offering a wider range of choices to parents and students. Vouchers would enhance the diversity, and hence the quality, of American education.

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PRESIDENT REAGAN ENDORSES THE EQUAL EDUCATION OPPORTUNITY ACT

The following is excerpted from President Reagan's fact sheet on proposed legislation which would have school districts which receive funds under Chapter I of the Education Consolidation and Improvement Act of 1981 offer the option of using some or all of these funds to provide vouchers to parents of educationally deprived school children:

Goals and Benefits

Sixty years ago, the Supreme Court held that parents have a constitutional right to send their children to private schools if they desire.

But many parents are foreclosed from exercising this constitutional right because they cannot afford private tuition on top of mandatory public school taxes.

The proposal will alleviate this problem by providing funds directly to the parents themselves, which, in combination with tuition tax credits, will enable parents to choose private schools if they desire.

The proposal will increase parental choice in the education of disadvantaged children, expanding the range of public and private schools these parents can choose for their children to attend.

The proposal will increase parental control over the education of disadvantaged children by allowing parents to choose the school which best provides the education they desire.

The proposal will make the power of competition work for parents of educationally deprived children, because schools, public and private, will have to seek to comply with the desires of these parents in order to attract their children and accompanying voucher funds.

PROPOSAL FOR "BABY BEOGS"

by Stephen D. Sugarman and John E. Coons

Through the Basic Educational Opportunity Grant program (BEOG) the federal government provides grants that help needy students pay for the costs of higher education. At present the grants vary in amount from $200 to $1800 per year depending upon the student's need as defined in the statute. Senator Daniel Patrick Moynihan has proposed that the benefits of the BEOG plan be extended to elementary and secondary education.

The proposed "baby-BEOG" grant program would be run by the Department of Education. The fact that it would be combined with aid to higher education is thought by some to aid its constitutionality. Most important, it is aimed at the working class and the poor.

For us the most exciting aspect of the baby-BEOG scheme is its targeting of aid on the non-rich. What is so stimulating about the new initiative is its responsiveness to the educational aspirations of those typically worst served by today's public schools. By focusing financial assistance on low-income families, the baby-BEOG proposal forcefully counters critics of government aid to private school users as stimulating increased economic class separation in education.

Our principal concern is the child now badly served by the public schools. We want that child's family to have the financial backing to make a credible threat to those schools; do better by our child or we will take our business elsewhere. Working class and poor families by and large cannot make such demands today; but with the right baby-BEOG plan, they could. Most importantly, giving these families economic power promises to provide the competition that can revitalize public education. Most families, we assume, will remain in public schools -- but now as consumers by choice. At the same time non-rich families who prefer private education will be able to make that choice for their children.

Determining Need

The core idea of baby-BEOG is to provide need-based scholarships to children attending elementary and secondary schools. Assume that this has been decided in principle. Who, then, should get the scholarships, and for how many dollars? One start on the problem might be to decide which children are poor -- perhaps all those living at or below the official poverty level -- and then simply offer to pay the full costs of their private schooling. There would be a number of serious problems with such a tactic.

First, need for assistance with school costs is neither restricted to children living in poverty, nor does need sharply cut off at any specific income level.

Second, a scholarship award for the full cost of schooling gives the eligible family a powerful reason to select the most expensive school. Putting a ceiling on the amount of the scholarship is one possible response to this pressure.

We suggest two general principles to be used in awarding scholarships: (1) Even the poorest family should make some (even token) financial contribution toward even the lowest cost school. (2) As either family income or school cost increases, so should the family's contribution.

Third, suppose now that a family has more than one child in private school? How would that affect its total contribution? At least three alternatives are worth considering. (a) A single contribution on behalf of the first child could suffice for the rest, or (b) each additional child in private school could impose on the family an obligation equal to that expected for the first child, or (c) a reduced contribution could be required for additional children. This is a difficult issue. However, the BEOG program for higher education has adopted a compromise position calling for extra but reduced contributions for each additional child; to simplify discussion we will here accept that position for baby-BEOG.

A possible formula could be as follows: Let us identify first a "standard" (or average) cost school; say it costs $1800 to attend. A family with one child who sends the child to such a school would be required to make an "appropriate" contribution and the grant would be 100% of the difference. At this point let us assume that the contribution would be set at the 10.5% rate that the BEOG formula now contemplates as the family's fair contribution out of discretionary income.

Suppose now the family chooses a school costing more or less than $1800. In that case an index number would be applied to its appropriate contribution to the standard cost school in order to determine the family's contribution to the school with different costs. This index number would be the ratio of the chosen school's cost to the cost of a standard school; for a school costing half the $1800 standard the index number would be ½. Hence, if family A's contribution, given its need, would be $400 in a standard cost school, it would become $200 in a $900 school; ($900/$1800=½ and ½ of $400=$200). On the other hand, if it selected a $2700 school, its contribution would be $600; ($2700/$1800=3/2 and 3/2 of $400=$600). For family A the grant program would match every $2 of family contribution with $7 worth of scholarship.

Suppose a somewhat better-off family B's appropriate contribution to a standard cost school to be $800; it would have to contribute $400 in a $900 school and $1200 in a $2700 school. For this less needy family the program would match every $2 of the family's contribution with a $2.50 scholarship. Stated differently, for every $9 of extra school spending, family A pays $2 and family B pays $4 -- the program makes up the difference. This means, for example, that to shift its child from a $1200 school to an $2100 school would cost family A $200 more and family B $400 more.

If the family had more than one child in school, then let us assume that its contribution for each additional child would be the same proportionate increase now provided for in the BEOG formula.

At least six types of alterations can be made to the hypothetical indexed grant plan that would shift costs more toward the family and away from government. First, the fair family contribution could be set as a greater proportion of discretionary income.

Second, the fair family contribution could be escalated at more than a proportional rate as school costs increase; in other words, the government matching rate could decline as the family spends more.

Third, the amount of income disregarded can be reduced. That could be justified on the ground that the BEOG disregard is too generous a definition of discretionary income, being set above the poverty level. This is a difficult judgment to make. We like instead the idea that by lowering the disregard we can assure that virtually all families contribute some modest sum toward the cost of private education they use.

Fourth, although the extra family contribution for additional children attending private schools can be increased, we prefer to stay with the BEOG rates.

Fifth, the definition of school costs can be tightened. We agree that ordinary living expenses (e.g., room and board) that sensibly count as costs for higher education, should not be subsidized by federal elementary and secondary scholarships.

Sixth, a ceiling could be placed on the amount of school costs toward which the government would contribute. If such a ceiling is established, it should take into account both the present cost of public schooling and the cost to start a new private school. Suppose we set the ceiling at $1000. This is more than the tuition cost of many private -- especially religious -- schools today. This observation, however, neglects the fact that without endowment sources, it is very difficult to start a new school from scratch with tuition levels of $1000. Especially since a central purpose of the plan is to empower poor and working class families credibly to threaten departure from public schools, a $1000 ceiling would be too low. Given typical public school costs across the nation today, we think it should be appropriate at the outset for our indexed plan to have a cost-matching ceiling of $2000. We recognize that low income students wanting to attend more costly schools would have to receive additional scholarships from those schools or find the money elsewhere. We have some confidence, however, that the costlier schools would in most cases provide some supplemental financial assistance.

Constitutionality of Our Baby-BEOG Proposal

Our proposal ought to pass First Amendment scrutiny by the Supreme Court in spite of the inclusion of religious schools. It is safer by far than the typical educational tax credit proposal for four reasons. First, its purpose is plainly nonreligious; it is based on a simple traditional philosophy favoring family choice of schools whether public or private. Second, unlike tax credits, which benefit private schools only, our version of baby-BEOG is designed to improve public education. The greater opportunity for lower families to "exit" would stimulate public schools to stop taking them for granted and to improve the quality of service. Third, while the other schemes favor existing schools (mostly religious) by forgiving tuition already paid, our baby-BEOG proposal would put the subsidy directly in the hands of the consumer. Fourth, the scholarship will be big enough to stimulate the growth of new schools -- including many nonreligious schools. These factors together demonstrate that aid to religion will only be a side effect; this will be reassuring to a Court which in the past has been presented with schemes that have has as their primary purpose and intended effect the bailing out of existing religious schools.

As a transitional measure, we propose that Title I of the Elementary and Secondary Education Act be converted to a "voucher" system. Now costing more than $3 billion annually, Title I has succeeded reasonably well as a non-stigmatizing public employment scheme. As a compensatory education device, however, it has little to show for itself. More promising is an arrangement whereby individual needy families control their child's share of the federal budget in the form of a mini-voucher. This could be easily managed.

Turning Title I funds into mini-vouchers would help the poor, low achieving children in private schools finally get their fair share of the pie. Indeed, for many poor families the voucher would be enough to pay for all or most of their basic private school tuition--something which should be permitted under the program. Other poor families will be able to switch from public to private schools of choice by having a Title I voucher. Finally, the bulk of poor families, whose children would remain in public schools, would gain a measure of influence over their children's education. They could, of course, tender their voucher to the local public school for the enrichment program the school offers. Alternatively, however, they could choose from an array of part time, after school, weekend or summer programs that will become available and are specially designed for low achieving students.

Title I vouchers and our baby-BEOG plan share common themes--focusing on lower income families in a way that permits them either to choose private schools for their children or to put pressure on public schools to reform. Seen in this light, a revamped Title I can be an important first step toward our proposal for federal scholarships for private elementary and secondary school users.

CRAFTING A COURT PROOF EDUCATION VOUCHER

Prepared for The Heritage Foundation by K. Alan Snyder[*]

Opponents of tuition tax credits and educational vouchers warn that such devices would spur, among other things, increased segregation, abandonment of the public schools, and fiscal irresponsibility. These practical arguments have been answered effectively by a number of scholars. But there remains the nagging question of constitutionality. This was answered for tuition tax credits in 1983 when the U.S. Supreme Court, in Mueller v. Allen, upheld the constitutionality of a Minnesota tax deduction for elementary and secondary educational expenses.

Vouchers are a more complicated matter for they represent, in effect, money that is actually provided by the government. This raises serious questions concerning indirect federal funding of schools, The issue has been argued in the courts for four decades. At times vouchers seem to be ruled acceptable, while at other times they have rejected as unconstitutional or have been used to raise the specter of sweeping federal regulation of private schools, The latter issue was raised in the 1984 U.S. Supreme Court ruling on the Grove City case, in which a college was not allowed to use grant money given to students unless it followed federal procedures for assurance of compliance with federal regulations.

The Grove City decision does not necessarily establish constitutional guidelines for educational vouchers. Analysis of court decisions indicates that, as long as the language creating vouchers is carefully drafted to preempt unwanted government intrusions, emphasize equal access to other school systems, and promote improved quality of education as well as freedom of choice, there is a good chance that vouchers will pass the constitutional test.

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The Mueller decision did not settle the issue for vouchers since they require government funding. With a tax credit, the government simply does not take a person's money; with a voucher, money that already is collected is then disbursed for the purpose of meeting educational expenses. Such disbursal requires government oversight and hence raises the specter of possible entanglement of government and religion.

The legal question turns on who receives the voucher payments. If they were to go directly to a private school, this surely could be considered government advancement of religion, an action prohibited by Everson. This would not be the case were the voucher money provided to the parents. They then could decide whether to cash the voucher and which school would receive the benefit. This would be a form of indirect funding to private schools, with the schools receiving funds only by the parents' free choice. As such, the Court should have no problem with it.

The Legal History

The 1947 Everson case, the initial ruling on the establishment clause of the First Amendment, provides the first indication of how the Court views indirect funding. In Everson, the Court approved state reimbursement to parents of children in nonpublic schools for costs of transportation, stating that since the aid went to the parents, rather than the schools, it did not violate the establishment clause. Everson thus allows indirect aid to parents of children in private schools.

Then in the 1948 McCollum decision, the Court touched on the issue, disallowing religious instruction on school grounds during school hours, even though the instruction was diversified and voluntary. Because the instruction was taking place in a building receiving public funds, the Court viewed it as indirect government sponsorship of religion. In this case, the indirect connection was not allowed.

In the 1952 Zorach decision, however, the Court allowed released time for religious instruction off school grounds during school hours. This amounts to indirect funding of religious instruction since government-sponsored "time" was involved.

In the 1963 Schempp case, daily Bible reading and prayer in public schools were declared unconstitutional because they infringed on the rights of those in the classroom who were not religious. The basis for the decision was that the schools were funded by government, and any funds going to aid a certain religious viewpoint would be wrong, as stated in Everson.

The central importance of Schempp, however, was the Court's ruling that government funds for schools must have a secular purpose and that the primary effect should neither advance nor inhibit religion. For the remainder of the 1960s, these two tests were regarded as the signposts to follow regarding constitutionality. As such, in the 1968 Allen case the Court allowed New York State to loan state-selected and state-approved textbooks to children in private schools that were church connected. The rationale for this decision was that the aid directly benefited the parents and students, not the church school. Here again, indirect funding seemed acceptable.

Other landmark cases in the early 1970s, such as *Lemon* (1971) and *Nyquist* (1973), dealt primarily with direct subsidies or with the issue of tax exemptions. Consequently, the decision on indirect funding in *Allen* remains the standard for analyzing voucher proposals.

The Grove City College Case

Early last year, the Court's ruling in *Grove City College v. Bell* led to fundamental reexamination of the status of vouchers. Grove City College is a private, religiously oriented institution that always has refused to accept direct aid from the government. About 140 of its 2,200 students, however, were receiving Basic Educational Opportunity Grants, while 342 has taken out Guaranteed Student Loans. Such indirect assistance may be similar to the proposed educational vouchers because the money went to the students rather than to the college.[1]

But the Carter Administration Department of Education decided that Title IX of the Education Amendments of 1972 made the college a recipient of federal funds through these indirect grants. The Department then ordered the college to complete the forms used to assure compliance with Title IX regulations or else the students would risk losing their federal grants.

Grove City contested the Department of Education's interpretation of the matter and thus refused to file the forms. In response, the Department started proceeding to declare the students ineligible to receive the funds. The case was carried to the Supreme Court, which ruled that Title IX requires Grove City to provide assurance of compliance. The Court added, however, that federal government oversight can apply only to the college's financial aid department rather than the college as a whole.

The decision has raised disturbing questions about the extension of government regulation over indirect assistance, for the Court ruled that assistance to a student implied assistance to at least part of the institution itself. Does this mean that, when parents receive voucher money and spend it at the school of their choice, the government then gains some control over the private schools receiving the voucher payments? To be sure, the *Grove City* case does not parallel exactly the proposed voucher systems. The Court ruling, for example, was based narrowly on the wording of Title IX of the Education Amendments of 1972. The case also concerned college level education rather than elementary or secondary schools. Still, *Grove City* could be seen as setting a precedent, which government agencies may try to apply to vouchers.

DESIGNING VOUCHER LEGISLATION

In the Chapter One Program for Disadvantaged Children, the Reagan Administration has tried to create a voucher system allowing parents to use the money at the school of their choice. To counter the possible charges that these vouchers are federal assistance to private schools, the Program is worded carefully, stating:

> Payment made by a local educational agency to a private school or to another local educational agency pursuant to an education voucher program under this chapter shall not constitute Federal financial assistance to the local educational agency or private school receiving such payments, and use of funds under this chapter received in exchange for a voucher to a private school or by a public school located outside of the school district in which the eligible child resides shall not constitute a program or activity receiving Federal financial assistance.

The Chapter One voucher proposal is still before Congress. It is a promising attempt to bring the voucher concept in line with Supreme Court rulings. Another approach is that of equal access. Congress recently passed legislation giving religious groups the same right of access to public school facilities as other student groups enjoy. It thus could be argued that all students need equal access to all types of schools in order to them to be certain of obtaining the best education available.

To meet the tests implied by the various Court rulings, the quality of education must be central to every voucher proposal. Vouchers must continue to have as their primary goal improved education for all children. Vouchers would help achieve this because they would force schools to demonstrate competence to attract students. The virtual monopoly currently enjoyed by the public schools would be challenged, stimulating competition that would revitalize public education.

Finally, a successful voucher proposal must stress the virtues of freedom of choice. It must be emphasized that, because of financial constraints, far too many parents cannot choose where to educate their children. Result: many children suffer from poor education. Vouchers would alleviate that situation.

CONCLUSION

The benefits of education vouchers are so apparent that the nation must try to establish such a system. By making sure that it serves secular purposes, does not mainly advance religion, and avoids entangling the state excessively in church affairs, a voucher program should meet the standards established by the Constitution and thus survive predictable challenges in the courts. At worst, if certain aspects of a voucher system were declared unconstitutional , the reasons for the ruling could be used to craft a better approach. The system is too important to the U.S. education system for its proponents to be intimidated by threats of a challenge in the Supreme Court. A voucher program ultimately can be crafted to meet that challenge.

IMPLICATIONS OF RECENT SUPREME COURT DECISIONS FOR EDUCATION VOUCHERS AND TUITION TAX CREDITS

By Daniel D. McGarry

Three decisions and opinions recently issued by a majority of the Justices of the U.S. Supreme Court have been adverse to the inclusion of religion in education. In their Wallace v. Jaffree decision (1985) a six to three majority of the Justices of the Supreme Court condemned even the mention of prayer as one alternative for students during a minute of meditation in public schools. In the Grand Rapids v. Ball and Aguilar v. Felton cases (1985), the Court, by a five to four majority, condemned the sending of public school teachers into nonpublic schools for remedial and enrichment instruction. These decisions are widely regarded as new severe blows against the cause of religion in American day-to-day education, even though certain aspects of the practices involved were open to question. To a considerable extent the decisions were simply applications of previous Supreme Court decisions and opinions.

In Wallace v. Jaffree (1985) the Supreme Court, by a six to three majority, decided that the Alabama Legislature's insertion of the words "or prayer" into a law providing for "a minute of meditation" at the beginning of the school day in public schools violated the First Amendment's prohibition against "an establish-regard to the primary secular effect aspect, they cited three possible ways it could be violated, as has been noted.

Four of the Justices -- Chief Justice Burger and Justices Rehnquist, White, and O'Connor -- dissented. Among points they made were that the First Amendment religion clauses do not forbid non-discriminatory government encouragement of religion. The main purpose and intent of the religion clauses was actually to insure full personal freedom of religious choice and practice. The clauses do so by preveinting government from favoring one or more religions over others on the one hand, and by preventing government from restraining or restricting the free, voluntary choice and practice of religion on the other hand. Both common sense and experience demonstrate that publicly employed teachers of diverse faiths teaching in denominational private schools will not illegally try to inculcate the religion of that denomination simply because they have crossed the threshold and are on the premises of a school of that denomination. The practice of providing public teachers of special subjects for students in church-related schools does not imply any government endorsement of a church or religion, since the instruction provided is merely an extension to such children of general benefits provided for all children in similar circumstances. Any resultant aid to church-related schools is indirect and secondary, as the direct recipients of aid are the children receiving the instruction. Nor does any unconstitutional excessive involvement of church and state result, as was extensively demonstrated by testimony in the New York case. The court-constructed "catch-22" dilemma -- that either the instruction by the teachers must be intensively monitored to prevent religious indoctrination thus compromising religious freedom, or there will be a serious risk of inculcation of the religion of the school by the public teachers -- is merely assumed, and disproven by experience, as well as unlikely on its face.

In their dissents the four Justices strongly disagreed with the allegations of the majority. They also indicated that they would like to see an eventual reconsideration of the present cases as well as previous Supreme Court decisions concerning church, state, and education questions.

Justice Rehnquist again referred to the original purpose and some 150 years of interpretation of the establishment clause(which he extensively discussed in Wallace v. Jaffree) as disproving the erroneous and negative historical assumptions of Justice Black in Everson (1947). Justice Rehnquist declared that "The Court relies heavily on the principles in Everson and McCollum," and declared that "In doing so the Court blinds itself to the first 150 years history of the Establishment Clause." Justice Rehnquist reflected that: "We have indeed travelled far afield from the concerns which prompted the adoption of the First Amendment when we rely on glossamer abstractions to invalidate a law which obviously meets an entirely secular need."

Justice White reiterated his disagreement with previous decisions of the Court wherein the majority had declared government aid to church-related education unconstitutional. He endorsed Justice Rehnquist's analysis of the historical purpose and intent of the establishment clause, and called for a reconsideration of decisions in this field.

Justice O'Connor, who would also have upheld the practices, criticized the majority's mechanical application of the tripartite test developed by the Court in Lemon, and especially the "excessive entanglement" prong, whose flaws, she said, were demonstrated by the decision. Justice O'Connor also criticized "as greatly exaggerated the theory ... that public schoolteachers who set foot on parochial school premises are likely to bring religion into their classes, and

ment of religion." Five of the six disapproving Justices cited the so-called "tripartite test" of constitutionality devised by the Court in the Lemon v. Kurtzman case (1971), according to which, to be constitutional, a law must have a secular purpose, as well as a primarily secular effect, and must not excessively entangle government with religion. Five of the six disapproving Justices condemned the added phrase "or prayer" on the basis that it could only be construed as having a religious purpose. The sixth disapproving Justice, O'Connor, said the addition was unconstitutional because it conveyed the impression that the state was endorsing religion and a religious practice.

Three Justices strongly dissented from the majority decision in the Wallace case. They said the phrase permitting and even suggesting the alternative open to possible question did not represent an establishment of religion. Chief Justice Burger pointed out that the sessions of the Supreme Court and the Houses of Congress open with prayer. Justice Rehnquist gave an extended and corrected history of the adoption and application of the First Amendment, showing that, contrary to Justice Black's opinion in Everson (1947), the First Amendment was not meant to prohibit government aid to religion, but was only intended to preclude establishment of an official national religion. Justice White agreed with both Chief Justice Burger and Justice Rehnquist, and called for a Court reassessment of its decisions in cases dealing with the religion clauses of the First Amendment.

Chief Justice Burger seemed to be moving towards Rehnquist's position when he criticized and rejected the majority's "notion that the Alabama statute is a step toward creating an established church." The Chief Justice noted that "The statute does not remotely threaten religious liberty", but rather "affirmatively furthers the values of religious freedom and tolerance that the Establishment Clause is designed to protect," while it manifests "the benevolent neutrality that we have long considered the correct constitutional standard."

In the Aguilar v. Felton and School Board of the City of Grand Rapids v. Ball cases (also in 1985) the Supreme Court, by a five to four majority, declared unconstitutional the sending of public schol teachers into non-government private schools (most of which are church-related) for remedial and enrichment instruction. The majority opinion, written by Justice Brennan, maintained that the virtually unmonitored system in the Grand Rapids School District presented an excessive risk of governmental advancement of religion since it might "have the effect of promoting religion in three ways. The state-paid instructors, influenced by the prevasively sectarian nature of the religious schools in which they work, may subtly or overtly indoctrinate the students in particular religious tenets.... The symbolic union of church and state inherent in the provision of secular, state-provided instruction in the religious school building threatens to convey a message of state support for religion.... Finally, the programs in effect subsidize the religious functions of the parochial schools by taking over a substantial portion of their responsibility for teaching secular subjects." Regarding the system of monitoring the religious content of courses used in New York, challenged in Aguilar v. Felton, the majority maintained that this at best would neutralize the first point made in the Grand Rapids case, but that, in doing so, it "inevitably results in the entanglement of church and state." For, the majority maintained, "When the state become enmeshed with a given denomination in matters of religious significance, the freedom of those who are not adherents of that denomination suffers.... In addition, the freedom of even the adherents of the denomination is limited by the government's intrusion into sacred matters." The disapproving majority in the Grand Rapids and Aguilar v. Felton cases thus invoked and depended on the second two prongs of the Lemon tripartite test, secular effect and religious entanglement, in their decision of unconstitutionality. In that the supervision necessary to prevent religious teaching would excessively entangle church and state." She noted that the danger and required supervision were no greater than in the case of teachers teaching in public schools (who were presumably tempted to bring their religion into their classrooms). Justice O'Connor returned to her favorite norm of constitutionality: absence of government endorsement of religion, which, she said, is verified in the present cases.

Chief Justice Burger likewise strongly disagreed with the majority decision. He criticized "the Court's obsession with the criteria developed in Lemon" and noted that the majority did not even attempt to explain how the practices at issue constituted a step toward establishing a state religion. The Chief Justice wryly observed of the decision that "Rather than showing the neutrality the Court boasts of, it exhibits nothing less than hostility to religion...."

To some extent Justice Powell, whose "swing vote" created the majority of five, remained on the fence. Obviously in partial doubt, Powell apparently chose to stand by the principle of "stare decisis" (respect for previous decisions). He rejected the remedial instruction provided by public school teachers paid by the federal government in the Aguilar v. Felton (New York) case solely on the principle of "excessive entanglement." He said that there was "too great risk of government entanglement in the administration of the religious schools" as well as "the additional risk of political entanglement." Despite the foregoing, however, Justice Powell praised "the important role (and contributions) of parochial schools", and offered them a ray of hope by saying: "Nonetheless, the Court has never foreclosed the possibility that some types of aid to parochial schools could be valid under the Establishment Clause.... Our cases have upheld evenhanded financial assistance to both parochial and public school children in some areas.... I do not read the Court's decision as precluding these types of indirect aid to parochial schools.... If, for example, Congress could fashion a program of evenhanded financial assistance to both public and private schools that could be administered without government supervision in the private schools, so as to prevent the diversion of the aid from secular purposes, we would be presented with a different question."

The importance of the aforesaid set of conditions is that, in addition to their being acceptable to Justice Powell, they would also obviously be acceptable to the four Justices who dissented, so that conforming legislation could be declared constitutional by a five to four majority of the Supreme Court. Analysis of the Powell statement shows that the aid could be either indirect or direct as long as 1) the aid was "evenhanded" (equal for both secular public and private religious school students), 2) the aid did not risk excessive entanglement of government with religion (i.e., was "without government supervision in the private schools"); and 3) the exclusive application of the aid to secular purposes could be insured.

Conclusions

It is evident from the three 1985 cases just discussed, as well as from previous cases, that four Supreme Court Justices are adamantly opposed to allowing any form of substantial aid to church-related education. This is true whether the aid is direct or indirect, and whether it is in the form of money grants, teachers, educational materials (other than textbooks), or tax deductions or tax credits. Their minds are definitely made up and they will not heed further arguments on the subject.

It is also evident that four Justices will accept and approve various forms of aid to church-related education, especially indirect aid that flows through parents and students. These Justices are sympathetic to parental rights and freedom of religion, and are receptive to arguments that will enable them to decide favorably in cases concerning government aid to church-related education.

One Justice - Powell - is not absolutely committed to either side, and tends to follow precedents in case of doubt. Justice Powell will accept aid that is available to public school students and their parents as well as to private school students and their parents as long as such aid does not occasion a serious risk of excessive entanglement of government with religion, and provided that its limitation to secular purposes can be insured. This would be especially true if the aid to schools was indirect. It is probable that in the case of tax deductions or credits, assurance of such a limitation to secular purposes would not be necessary. It is also barely possible that Justice Powell would even accept direct aid under all of the aforesaid conditions.

Obviously any change in the constitution of the Supreme Court, such as that caused by a death or resignation, could change the situation for better or for worse as far as the outlook for government aid to church-related education is concerned. A new Justice, not previously committed, would be confronted with counterbalancing considerations, including adverse precedents on the one hand and strong dissenting arguments on the other hand. Much would also depend on his or her previous commitments and exposure.

Meanwhile, it is apparent that, as long as the present Court sits without any change in membership, federal and state tax deductions for the educational expenses of students attending church-related as well as public schools would be accepted by a five to four majority of the Supreme Court. It would also seem that tuition tax credits, as equalized tax deductions, might also well be acceptable, even though only a small proportion of parents of public school students pay tuition.

As to education vouchers usable in either public or private schools, there is a possibility that Justice Powell and hence the present Supreme Court would decide either way. Certainly the aid would be evenhanded and indirect, but it would be monetary, and could its exclusive application to secular purposes be insured? Would the general nature and indirectness of the aid eliminate this necessity? What other possilities remain under Justice Powell's above quoted prescription is not clear. Just how far would Justice Powell go in estimating the equivalency of aid to public and private school students, and just how tolerant would he be in judging whether given forms of aid would be solely applicable to secular purposes or whether this condition would be necessary?

All has not been lost by the expensive presentations of legal defense and amicus briefs in cases such as these in which judgments have been adverse to inclusion of religion in education. Gradually in the last fifteen years (since the Lemon case), the number of Justices upholding educational freedom has moved from one (White) to four and occasionally five. The reasoning and opinions of an increasing number of Justices have slowly come to include or at least incline to a more correct and constitutional interpretation of the religion clauses of the First Amendment. A few more years and we could see a reversal and correction of the current negative Supreme Court position relative to government aid to church-related elementary and secondary education. There is already a trend to this reversal. Much of this trend has been due to the more fundamental considerations and arguments advanced in more fully ranging amicus curiae briefs as well as courageous arguments of counsel. Much credit is also due to the research upon which such arguments are based. What is needed is a new Supreme Court approach and vision in church, state, and education cases that will permit abandonment of some previous assumptions, as has been urged by Justices Rehnquist, White, and O'Connor. Arguments of counsel and amicus curiae briefs can contribute to this, as they have in the past. A prime example of how thinking of the Justices can be changed is the influence of the historical argument concerning the real original purpose and application of the establishment clause, which has now come to be accepted (at least) by Justices Rehnquist and White, and may also be accepted by Chief Justice Burger and Justice O'Connor.

Certain aspects of the practices rejected in the aforesaid cases were not entirely acceptable to friends of independent education, such as the elaborate precautions to avoid any suggestions of an encouragement of religion (v.g. removal of crucifixes from classrooms). Thus their cessation is not completely disastrous. Meanwhile the previous alignment of the Justices remains essentially unchanged; and Justice Powell may or may not have continued his "conversion" to a more tolerant position. What is important in the long run is the continued evolution and reinforcement of the position of more open-minded Justices. This evidently took place in the three cases, and was assisted by arguments presented. Meanwhile the probable outcome of any new cases before the current Court is summed up in the position of Justice Powell, who would definitely approve educational tax deductions, and might well also approve tuition tax credits and education vouchers usable in private as well as public schools.

ADDITIONAL INFORMATION CONCERNING VOUCHER PROPOSALS

A LETTER CONCERNING
THE COONS-SUGARMAN VOUCHER PROPOSAL IN CALIFORNIA
FROM PROFESSOR SUGARMAN

In reply to a letter from the editor, Prof. Stephen Sugarman of the University of California Law School writes:

In 1970 Professor Coons, Clune and I published a book called Private Wealth and Public Education which sought to reform public school finance and suggested fair ways of school finance that eliminated wealth differentials but maintained principles of local control. In that book we focused not only on local control to district level but also at the family level and proposed a voucher plan known as "Family Power Equalizing."

In 1971 Professor Coons and I published a detailed statutory proposal for a voucher plan in a book called The Family Choice and Education Act. Later we made a proposal to the New York state commission on the cost, quality and financing of elementary and secondary education for such a plan.

Then in 1978 we published a book called Education by Choice: The Case for Family Control in which the general case for vouchers was made. Throughout, our concern has primarily been one of giving working class and poor families who now have their children in public schools the economic leverage to either (1) pressure public schools to improve or (2) take their business elsewhere. This approach could be pursued through the education voucher initiative, which we have attempted to put on the California ballot.

The key features of our voucher plan are that the voucher amount be big enough so that low income families represent a realistic threat to withdraw from public schools and that means that the vouchers be big enough for such families to start good schools on their own or to send their children to newly formed good quality schools. We also insist that low income families have fair access to exsiting private schools,and thus insist upon certain kinds of enrollment and/or tuition limits on the private sector. We also favor the restructuring of the public schools by liberating individual public schools from the state bureaucracy and therefore a part of our proposal has always included some kind of public voucher school arrangement.

An organization named after our book called "Education By Choice" has been formed in California but, I am sorry to say, has not been intensively active. We have a wide range of supporters but it requires the massing of a sufficient organization and/or campaign chest to put something on the ballot as we have now learned. We still have hopes for a signature drive for 1986. In the meantime, Professor Coons and I have been consulting with people in places like Minnesota, Louisiana and Colorado who seek voucher plans for their states.

Editor's Note: Dr. Thomas Walters is presently attempting to raise funds to revive and promote the Voucher Movement in California. Mr. Roger Magyar of the Sequoia Institute is also working on behalf of Vouchers in the state, as well as across the nation.

STATEMENT CONCERNING
THE PROPOSED EDUCATIONAL EXCELLENCE AMENDMENT
IN COLORADO
BY MR. HUGH FOWLER

The Educational Excellence Amendment was an effort to place on the general election ballot in 1984 an amendment to the Colorado constitution which would guarantee three (3) new rights:

1. The right of schoolchildren to find a minimum core curriculum of reasonable quality in any government (secondary) schools;
2. The right of every teacher in a government (tax-supported) school to be judged and paid according to individual performance;
3. The right of every parent to control his proportional share of state tax education appropriations in the choice of a school from among both government ("public") and non-government schools.

The initiative provoked resistance from both the public and private sectors in Colorado. Independent schools feared two outcomes:

1. Increased government intrusion (although the amendment specifically prohibited negative reactionary legislation), and
2. Competition for students from an upgraded government school system which would lure students away from the independent sector.

The government sector was driven by the basic adknowledgement that -- if given a choice -- parents would desert government schools in sufficient proportions to create inconvenience for the bureaucracy and a reduction in state per-capita support. The NEA/CEA teacher union spent $35,000 of teacher dues to hire attorneys. They challenged the ballot title (not the substance of the amendment) written by the Secretary of State. The Supreme Court found the title defective (omission of the description of public schools "which are not pervasively sectarian.") Five thousand new petition sets were distributed to the 1500 petitioners who started over with only 5 weeks before the deadline. The union won.

During the petitioning, both the governor and other governmental leadership suggested alternatives to the initiative process: "we promise to take some action on school improvement if you will drop your 'attack on the schools.'" Once the Supreme Court acted, the issue cooled and the legislature failed to adopt any improvements in the 1985 session.

THE VOUCHER DEMONSTRATION PROPOSAL OF THE MINNESOTA FEDERATION OF CITIZENS FOR EDUCATIONAL FREEDOM

SUMMARY OF THE C.E.F. EDUCATION VOUCHER BILL

Section 1: Specifies name of bill as "Education Choice Act.
Section 2: Specifies legislative purpose: to test whether parental and student choice in education will improve the responsiveness and quality of the delivery of education services in Minnesota.
Section 3: Defines various terms, including "demonstration area" as all or part of the area of a single school district or cooperating group of districts.
Section 4: Authorizes demonstration voucher programs in up to eight (8) school districts or cooperating groups of districts for three (3) school years. Provides a mechanism for application by districts for participation in the program.
Section 5: Provides for participating districts within the demonstration area to receive all state aids and local levy receipts provided by law.
Section 6: Authorizes districts to take certain actions to implement the program.
Section 7: Sets voucher amounts at the state foundation aid amount where redeemed at a public school, or eighty percent (80%) of the cost of an independent school education, up to eighty percent (80%) of the foundation aid amount where redeemed at a school other than a public school. Authorizes compensatory vouchers and transportation in addition to basic vouchers for economically disadvantaged or handicapped children.
Section 8: Allows use of vouchers in the demonstration area by school children

whose parents or guardians live or work in the demonstration area or in a school district geographically contiguous to the demonstration area. Provides certain standards for school eligibility to receive vouchers, including non-discrimination, provision of extensive information to parents, periodic testing and reporting of student progress, and agreement to accept vouchers as full and complete tuition for handicapped or low-income children.

Section 9: Establishes a new Minnesota Voucher Board consisting of nine (9) members appointed by the governor. A majority must be parents or legal guardians of children of school age at the time of the member's appointment to the Board. Provides for the Board to select an Executive Director and, with the Director, to administer the demonstration voucher program. Authorizes the Board to apply for and accept federal or foundation funds.

Section 10: Provides for an evaluation mechanism to determine how the demonstration voucher program is working in the participating areas.

Section 11: Provides for reporting to the Department of Education and the Minnesota Legislature.

Section 12: Provides appropriations for the establishment and maintenance of the demonstration voucher program.

* Introduced by Representative T. Dempsey et al and Senator F. Chmielewski et al in the Minnesota Legislature. Supported by Minnesota Citizens for Educ. Freedom.

THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL'S VOUCHER BILL*

Introduction

American education is in need of reform and improvement. This could be effected by providing education vouchers allowing family choice of schools.

Annual scores of the Scholastic Aptitude Test (SAT) - a standardized test that measures the aptitude of college-bound students - have been decreasing for fifteen years. Almost 25% of all high school grads are what educators classify "functional illiterates," or people who are unable to read want ads, news stories, and similar written material.

Contrasting to decreasing SAT scores and rising dropout rates is the increasing cost of education. The average cost of educating a student in secondary education reached $2070 in 1980** - a 154% increase from the comparable cost ($816) in 1970. In the past fifteen years, the amount of public monies directed to education almost doubled as a share of GNP, tripled as a share of many state budgets, and increased over seven-fold as a measure of constant dollars.

Clearly, the tax-paying public is not getting the return they are entitled to expect from the increasing amount of tax dollars being invested in education. For the families that decide to send their children to private schools, the unrealized return is a double-edged irony: on one hand, the parents pay a tuition fee at private schools so that their son or daughter may receive a good education; on the other hand, the same parents subsidize the public schools (which their child does not attend) through property taxes, sales taxes, or income taxes.

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* From Source Book of American State Legislation (American Legislative Exchange Council, 418 C St., Washington, D.C. 20002).

** This average cost reached over $3,000 in 1985.

One alternative to the present system is a tuition voucher plan. This is a system under which families would choose which school, be it public or private, that their child would attend. A voucher plan would not require a change in hiring, testing, curriculum or even enrollment standards set by the schools. The only difference between a voucher system and the current one is that families rather than the government would decide on the choice of a school. It would return a measure of choice to families and students, and in the process make educators more responsive to the needs of the student population.

John Coons, a respected U.C. Berkeley law professor, puts the basic rationale for vouchers in this way: "Ordinary people are the best managers of their own affairs. Give them good information about schools; give them professional counsel to help them choose. But do not force them into a school picked by administrators who have never met their child. Let them (the students and the parents) decide for themselves."

The suggested Family Choice in Education Act equalizes educational opportunity, increases the authority of parents, gives families a choice among schools, reduces the costs of school overhead, and provides better protection against discrimination.

The suggested legislation achieves these goals through a relatively simple system. It allows any person of school age to sign up at "any public or private institution, enrollment at which constitutes compliance with compulsory education laws." The criteria for what constitutes a "school" is not further defined, since state definitions vary greatly. For purposes of the education laws, the term is defined in compulsory state education laws which, in turn, offer detailed definitions of public and non-public schools.

Schools which participate in the proposed tuition voucher system would be reimbursed for the expenses of education. The amount of reimbursement is determined by (1) the number of students enrolled at the school multiplied by (2) the average per pupil cost for the previous school year. The formula for calculating the per pupil cost ostensibly would include such items as teacher salaries and textbook purchase prices. The decision of what to include is left to the discretion of the State Treasurer.

The participating schools have the burden of proving the number of students enrolled (which determines the amount of money to be paid by the State Treasurer). The suggested legislation allows the State Treasurer to challenge an enrollment claim thus providing a means of checking fraud and error (e.g., a student enrolled at two schools).

For public schools, participation in the new system would be mandatory. This means that public schools would compete with one another for the enrollment of students, rather than be guaranteed a regular student population. As the plan is phased in, the public schools would, of course, have a large base of students from which to cultivate enrollment.

The Family Choice in Education Act does not require additional education outlays. It is funded by that portion of the state budget that currently pays for elementary and secondary education. Since schools would compete for students, the public schools would have an incentive to economize. Schools which are unable to sustain a steady flow of students would either alter their curriculum and policies or cease to operate.

The principal advantage of the Family Choice in Education Act is that it makes public schools responsive to the needs and desires of parents and students. Under the current system, the schools have no such incentive because students are required by law to attend particular schools. The only alternative is the private sector, which charges tuition. Such an arrangement has the effect of insulating public schools.

The Constitutional Issues

The question of constitutionality is central to the idea of tuition vouchers. Based on objections to tuition voucher ballot initiatives in California and Michigan, legislators can expect to confront two recurring questions. First, would the use of vouchers by private schools be a violation of the "separation of church and state" doctrine? Second, would the availability of "free" education prompt a rush from public schools to private schools, resulting in segregated schools?

The recent history of court decisions related to education suggests that a voucher plan would not violate the Constitution. The voucher plan is not designed to aid a particular religion, nor is it designed to promote a specific philosophy. Courts have never struck down an education law that was open to participation by all students in all schools. The G.I. Bill of Rights and Basic Educational Opportunity grants are two examples of such laws. Both programs are used to finance student education at public as well as private schools.

The courts have only ruled against education laws that were passed to benefit children of particular religions. For instance, in the 1973 case of Nyquist v. New York, the Supreme Court struck down a tuition tax credit plan because it was designed "predominantly for parents with children in sectarian, that is, Catholic schools." In the same case, the Court listed three requirements for laws that have potential for affecting private schools. They are: (1) the law must neither inhibit nor promote religion; (2) the law must have a secular primary purpose and effect; and (3) the law must not bring about "excessive entanglement" of the State with religion.

The suggested Family Choice in Education Act meets all the Court's criteria. The purposes of the statute (listed in Section 2 of the act) have nothing to do with the inhibition or promotion of religion. The question of curriculum is left to the discretion of the school. The only role the State would play vis-a-vis participating private schools would be superviserial, i.e., challenging enrollment claims and making sure that students really attend the school.

As a protection for the educational sovereignty of private schools, the act specifically states in Section 4: "This act does not authorize, nor should it be construed as authorizing, state or local government regulation of private schools except for laws and regulations related to health and safety standards."

As for the segregation question: the argument that students would rush to private schools under a voucher system erroneously assumes that the vast majority of well-to-do and middle-income students would flee public schools if only given an opportunity. Apart from what such an assumption says about the condition of public schools, the fact is that students from middle-income and higher-income families already have this option. If such families were anxious to segregate their children from minorities, they could do so under current circumstances.

Evidence for this was supplied by the U.S. Department of Education in a study released December 1980. The study showed that 62.7% of whites in non-public schools are from families that earned $25,000 or less each year. A near-majority of such students (45.6%) are from families with annual income of $20,000 or less.

A full 27% of white, non-public school students have family earnings of $15,000 or less. These government statistics show quite clearly that private schools are not a haven for the affluent or elite.

The suggestion that private schools would hamper desegregation efforts also presumes that private schools have no interest or commitment to the eradication of racial tensions. The fact is the private schools have made more consistent efforts at narrowing white-to-minority ratios than the public schools. Dr. Thomas Vitullo-Martin has observed in congressional testimony (July 1980): "Private schools can be a resource for a city attempting to maintain an integrated population, not because the schools are racial havens - the data shows they are not - but because they can hold racially mixed communities together."

The Supreme Court has repeatedly held that a law does not violate the Fourteenth Amendment unless it is adopted for a racially discriminatory purpose. The voucher plan proposed by the Family Choice in Education Act would be available to all children, regardless of race, sex, income or religion. More importantly, the voucher system allows choice for minorities. To the extent that low-income minorities cannot now afford the luxury of choice, the Family Choice in Education Act actually reduces the discriminatory tendencies of the present system.

Summary

Race relations and separation of church and State are central to the controversy over tuition vouchers. However, supporters of the idea must not lose sight of the principal objective of vouchers, namely to provide the choice in education which families currently do not have. If public schools have such poor instruction that students will flee to private schools, then public schools need to make changes in their approach to education.

The Family Choice in Education Act does not speculate as to what the new approach would be. It merely gives schools the encouragement to adapt to student needs by incorporating free enterprise theory into the education marketplace.

TEXT of Education Voucher Legislation Suggested by the American Legislative Exchange Council:

Section 1. (Short Title) This act may be cited as the Family Choice in Education Act.

Section 2. (Statement of Purpose) The Legislature of this State has passed this law to improve the quality and efficiency of public schools. It is further its objective to:

A. Maximize educational opportunity for all children.
B. Increase the authority of parents and teachers.
C. Allow family choice among different schools.
D. Provide better protection against racial, sexual, religious or income discrimination. And
E. Eliminate the administrative cost of excessive regulation.

Section 3. (Definition) For the purposes of this act, the terms -

(1) "School" means any public or private institution, enrollment at which constitutes compliance with compulsory education laws of this State.

(2) "State School Monies Fund" means that portion of the State budget that pays for elementary and secondary education expenses.

(3) "Tuition Voucher System" means the system of financing and administering education as defined in this act.

(4) "Participating school" means any school participating in the Tuition Voucher system created by this act.

Section 4. (Creation of Tuition Voucher System)

A. There is created within the State Treasury the Tuition Voucher Fund, which shall consist of those funds in the State School Monies Fund.

B. For all school years beginning (effective date), all students of school age may fulfill the requirements of compulsory education as defined in (cite appropriate public laws) by attending a school participating in the Tuition Voucher System created under this act.

C. All public schools must participate in the Tuition Voucher System.

D. Any non-public school may participate in the Tuition Voucher System, provided that the school complies with the terms and conditions of health and safety standards as provided by public law. No school shall be denied participation because it teaches moral or social values, philosoply or religion.

E. Participating schools may not advocate unlawful behavior or expound the inferiority of either sex or of any race.

F. This act does not authorize, nor should it be construed as authorizing, state or local government regulation of private schools, except for laws and regulations related to health and safety standards.

Section 5. (Reimbursement of expenses)

A. The State Treasurer shall reimburse schools that participate in the Tuition Voucher System at the following rate:

(1) The total number of students enrolled in the participating school, multiplied by

(2) Ninety percent of the average annual per pupil expenditure for public elementary and secondary students during the previous school year, as determined by the State Treasurer.

B. Any school participating in the Tuition Voucher System shall develop and file with the State Treasurer a Statement of Enrollment. This Statement of Enrollment must be filed no later than (appropriate date) of the school year, and shall include the following information:

(1) The name, address and birthdate of each student enrolled at the school, and

(2) The total number of students enrolled at the school for the school year in which reimbursement is requested.

C. The total number of students enrolled at the school, as described in Section 5., Subsections B (1) and (2) of this act, shall include any student who receives course instruction at home or any other facility in this State, provided said student receives such instruction from an employee of the participating school and under a curriculum approved by said school.

D. The State Treasurer is authorized to challenge any information contained in the Statement of Enrollment defined in Section 5(B) of this act. The challenge must be made within thirty (30) days of receipt of the Statement of Enrollment. The State Treasurer shall make a determination within fifteen (15) days of such challenge as to whether the challenge is accurate. The Treasurer will furnish the affected school with a Statement of Finding, which shall state the reason(s) for the challenge and the reason(s) for action(s) taken pursuant to the challenge.

Section 6. (Severability clause)

Section 7. (Repealer clause)

Section 8. (Effective date)

CHOICE EXTRACTS

Edited by Professors Roy Lechtreck and Daniel D. McGarry

PROPOSALS FOR EDUCATION REFORM

By Roger Magyar
in Sequoia Education Newsletter

What is Public Education?

"Public education" is a broad term. The traditional view asserts that both financing and operating schools are best handled by government. Because everyone in society benefits from having a literate, thinking, productive population, it seems appropriate for the entire community to subsidize costs of education. There is no significant opposition to this position. The case for government-operated schools is more controversial.

In one sense, public schools represent a glaring contradiction of the American ethic because they deny a majority our most precious civil right: freedom of choice. Those with financial resources have choice (of different neighborhoods and numerous schools); the rest make do with public schools to which they are assigned.

The term "public education" now refers to the impenetrable bureaucracy of government schools, rather than a civic commitment to educate children in an environment best suited to their respective interests and abilities.

Effective reform recognizes that what must remain "public" about education is the financial support contributed by taxpayers. But nothing indicates government control of methods and management will guarantee excellence.

What role should state government have?

Increasing numbers of legislators see that centralized control of local schools has failed to produce flexibility, innovation, or improved performance. If anything, the system has continued to deteriorate.

California State Senator Leroy Greene recommends four guidelines for state policy. He says that the state should:

1) Identify desired outcomes, not mandate process and inputs.
2) Recognize that local schools are the best point to identify and implement needed improvements.
3) Use money to motivate schools and teachers; and keep incentive funds separate from cost of-living adjustments.
4) Require schools to compete.

Studies of public and private schools reveal improvement occurs at the school site (or building) level. Reform imposed from the top down does not work. Successful reforms are those giving people directly involved with educational outcomes the authority and responsibility for initiating change.

Society must design an educational system that has the flexibility to learn and improve with experience. To accomplish this, states will have to delegate authority and responsibility to parents. school boards, principals, and teachers. Increasing state control will only remove power from those in the best position to implement change.

Do larger organizations improve school performance?

One of the clearest answers comes from John Goodlad, nationally recognized professor of education, in his recent book A Place Called School. He states, "Surely any arguments for larger size based on administrative considerations are far outweighed by educational ones against large schools.... Most regard (for elementary schools) 225 to 250 students as the maximum enrollment desired." Goodlad adds,"Indeed, I would not want to face the challenge of justifying a senior, let alone junior, high school of more than 500 to 600 students."

Research suggests there are few economies of scale in public education. ("Economies of scale" refer to the ability of large organizations to achieve savings small organizations cannot attain.) In fact, there appear to be diseconomies (inefficiencies as size increases) for schools enrolling more than 2500 students. Where potential scale economies exist, schools may contract with other small schools or with the private sector.

Size is not a satisfactory substitute for excellence. Consolidation of districts occasionally may have saved money, but it also diluted the influence individual parents could exert over their children's schools. Larger enrollments may have created the possibility of a more varied curriculum; unfortunately, they also generated a production-line anonymity that denied many the individual attention they needed to succeed.

What do we know about achieving excellence in the private sector?

The cardinal principle of well-run businesses is that organizational goals, structure, and leadership are focused on empowering people to realize the aims of the company. In short, organizational design is concerned with increasing the effectiveness of people in the company. Peters and Waterman, in their book In Search of Excellence, note that innovative environments have these common traits: remaining close to the customer, allowing for autonomy and entrepreneurship among their personnel, recognizing that productivity comes from people, having hands-on management, maintaining a lean staff, and exhibiting a clear sense of mission.

What does evidence suggest for school reform?

There is no "one best" method for producing education services. What is needed is a system that can and will improve. Parents must have greater influence, and school boards, principals, and teachers must have real authority if the goal of quality education is to be a reality.

States must be willing to decentralize control and create a framework that rewards excellence and eliminates mediocrity. Our knowledge of the private sector and its responsiveness to a changing environment provides a model for restructuring the school system.

Competition and consumer choice are the mechanisms that must be harnessed to pull schools from the bureaucratic mire and academic morass now engulfing them. Competition and choice will serve to enhance school effectiveness, maximize efficiency, promote parental involvement (by giving them real power: the ability to choose), raise teacher morale (by restoring the professional authority they now lack), and increase the variety of programs available to students.

Competition can threaten only deficient schools and unqualified educators. Lack of competition prevents freedom of choice. Choice is a right all families possess.

Proposals for Education Reform

The following are some recommendations for introducing competition, choice, and performance incentives into our public schools:

- encourage Congress to amend existing law so that states can experiment with alternative ways, including vouchers, of serving students benefitting from Chapter One funds. (President Reagan has advocated this change for several years.);
- allow students to attend the school of their parents' choice, space permitting;
- authorize vouchers or tax credits to enable all parents to choose between public and private schools, thereby stimulating competition and fostering innovation;
- permit deconsolidation of large districts to form units of more manageable size; delegate to communities and neighborhoods power to control their schools;
- accompany Master Teacher or Merit Pay plans with a mechanism for identifying substandard faculty who will be required to exhibit improvement within a specified period or be terminated;
- develop clear standards of performance and employ comprehensive measures to assess productivity and establish accountability;
- provide bonus payments to staff members at schools producing a specified level of performance;
- report district and individual school budgets on a per student basis to simplify comparisons; relate inputs, in terms of money and personnel, to outputs, in terms of student achievement.

SOME ARGUMENTS FOR VOUCHERS AND SOME DIFFICULTIES INVOLVED IN PROVIDING THEM

By Tyll Van Geel[*]

One of the most persistent issues in American educational history has been the question of whether most children ought to be educated in publicly financed and publicly operated schools, or in publicly financed but privately operated schools. Put differently, the issue has been whether government officials or parents should have primary control over the decision as to how to spend public tax moneys.[1] As a practical matter those who have been supporters of the public schools have won the day. Since the nineteenth centruy we have witnessed the continuing expansion of public schools in the United States in terms of geography, number of years students must attend, number of students attending, and amount of money spent on public schools. Accompanying this expansion of the public schools have been periodic attempts to eliminate by state law all nonpublic schools. Such laws were passed in the 1880s in Wisconsin and Illinois but were quickly repealed in the face of strong opposition primarily from Catholics and Lutherans.[2] The senith of the effort to make public schools predominant was reached in Oregon in 1922 when the state legislature under pressure from the Ku Klux Klan and other nativistic groups adopted a law that required all students to attend only public schools.[3] While this and other less draconian laws designed to regulate private schools were ultimately struck down by the Supreme Court, the expansion of the public schools has continued to this day as people have found it increasingly difficult to afford the cost of private schooling in the face of rising tuition and in the face of rising educational taxes that people have to pay regardless of whether they make use of the public schools or not.[4]

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[*] Of the State University of Rochester, New York. This article was originally published in the Teachers College Record, Vol.79, No.3, pp.339-363.

[1] See, for example, Vincent Lannie, Public Money and Parochial Education: Bishop Hughes, Governor Seward, and the New York School Controversy (Cleveland: Press of Case Western Reserve University, 1968).

[2] Otto F. Kraushaar, American Nonpublic Schools: Patterns of Diversity (Baltimore: The John Hopkins University Press, 1972), p.32.

Some Arguments for Vouchers

An understanding of the intellectual groundwork of the effort begun at the end of 1969 to bring educational vouchers to the country is necessary because the rationale throws considerable light on the difficulties reformers encountered in bringing about their proposed changes. A review of the rationale is an indirect but necessary rout in formulating a theory of the politics of changing the authority to control the expenditure of public funds.

The essay "On Liberty" by the nineteenth-century English philosopher John Stuart Mill provides a useful place to begin.[5] Mill's premise was that liberty - especially freedom of speech - was extremely important both for the individual and for the society because preservation of individual liberty was one way of assuring the greatest food for the greatest number. This strong faith in liberty led Mill to be extremely suspicious of anything that threatened to reduce individual liberty, and this included government and more specifically public schools.

> A general state education (wrote Mill) is a mere contrivance for moulding people to be exactly like one another: and as the mould in which it casts them is that which pleases the predominant power in the government, whether this be a monarch, a priesthood, an aristocracy, or the majority of the existing generation; in proportion as it is efficient and successful, it establishes a despotism over the mind, leading by natural tendency to one over the body.[6]

Thus, instead of a public school system operated by government, Mill called for a system under which the poor obtained financial help to send their children to private schools.[7] The government would also offer certificates to those who successfully passed voluntary examinations in a variety of subjects. But these tests, he insisted, must be confined to facts and positive science exclusively; the tests should not turn on the truth or falsehood of opinions, for to do so would open the door to many abuses.[8]

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[3] David Tyack, "The Perils of Pluralism: The Background of the Pierce Case," American Historical Review 74 (October 1968); 74-98.

[4] Pierce v. Society of Sisters, 268 U.S. 510 (1925); Meyer v. Nebraska, 262 U.S. 393 (1923); and Farrington v. Tokushige, 273 U.S. 284 (1926).

[5] J.S. Mill, "On Liberty", in Utilitarianism, Liberty and Representative Government (New York: J.M Dent & Sons, Everyman's Library, n.d.).

[6] Ibid., p.161.

[7] In a recent article, John E. Coons ("Law and the Sovereigns of Childhood," Phi Delta Kappan 58 (September 1976): 19-24 elaborated upon the reasons why we can reasonably assume placing greater control over the education of children in the hands of parents rather than in government officials is the more likely way of enhancing the liberty and autonomy of children. The argument is that children are more likely to be listened to within the intimate family as opposed to the

With Mill as his intellectual inspiration, E.G. West constructed one of the most sophisticated of the modern attacks on the public operation of educational services.[9] His starting point was that the burden of proof rests upon those who would create a publicly operated school system, because he believed with Mill that such a system for providing education results in a dimunition of the liberty of parents, children, and taxpayers. And while the reduction of liberty in order to achieve important social objectives may at times be justified, this ought to be, West seemed to suggest, the least reduction necessary in order to achieve the stated objectives. With this established, West argued that publicly operated schools infringe upon liberty to a wholly unnecessary degree. All the objectives that public schools are designed to serve are achievable by simply passing a compulsory education law and then subsidizing parents so that they could afford to send their children to private schools. Such a system of making sure the children were educated, argued West, would be as effective as public schools, if not more so, in combating crime and illiteracy, providing for equal educational opportunity, and promoting the economic growth of society. Indeed, as regards these objectives, indications are that the public schools may foster crimes, do in fact fail to graduate literate students, and in many respects fail to equalize educational opportunity. As for the public schools' assuring that children are educated in a common culture and values, West argued that the evidence is that as a practical matter the kind of culture and values imposed by the public schools is such a blend of conflicting viewpoints and has been so watered down in order not be be offensive that it is a synthetic culture that no person or group believes in. Indeed, in American educational history, a primary motivation for the establishment of private schools has been the desire to promote a particular religious viewpoint in the face of what some considered to be the "godless" curriculum of the public schools.[10]

In sum West believed there were less obnoxious but equally effective ways of achieving the legitimate educational objectives of society. Our present policies, in West's view, may in fact serve only the interests of teachers by assuring to that group secure and highly remunerative employment. In West's view, the very fact that we have a public school system instead of a private system publicly subsidized is importantly the result of the lobbying efforts of professional teachers who believed there was more job and income security under a public system of education than in the private schools.[11]

Economists have argued that the publicly operated system for supplying educational services is inefficient - produces a lower quality of service than a privately operated system with the same resources - for two additional reasons. The first of these begins with the observation that in profit-making enterprises the owners of the enterprise can monitor the performance of the managers of the enterprise.[12] But since public schools are not profit-making enterprises, the school board must monitor the productivity of adminstrators and teachers differently. That is, the school board must identify which attributes of the schools

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large bureaucratic school and parents are likely to have a stronger interest in promoting the autonomy of children and ending dependency than would government employees whose job depends on having children within their control.

[8] Mill, "On Liberty," p.162.

[9] E.G. West, Education and the State, 2nd ed.(London: Institute of Economic Affairs, 1970).

[10] Kraushaar, American Nonpublic Schools, p.21.

[11] E.G. West, "The Political Economy of American Public School Legislation," The Journal of Law and Economics 10 (October 1967): 101-28.

[12] The analysis presented here is based on Cotton M. Lindsay, "A Theory of Governmental Enterprise," Journal of Political Economy 84 (October 1976): 1061-77.

are most important to them and then determine how much the administrators and teachers have contributed to the realization of those attributes. The problem is that certain attributes of the schools are more readily monitored by school boards than others. For example, order in the schools is more readily monitored than the happiness of students or whether students have a positive sense of self. As a result administrators and teachers will have the incentive to divert resources from the production of a positive sense of self to school discipline. This is so because the production of attributes not being monitored by the school board will not increase the perceived productivity of the administrators and teachers. Furthermore, school boards will not fund outputs they cannot monitor, for to do so would be to encourage the using up of resources without the board's being able to check on their proper use. The result of these factors is that public schools will emphasize the production of certain easily measured attributes to the neglect of other attributes not so easily monitored, but perhaps of great importance to children and parents. And while members of the public may complain to the school board about these deficiencies, they cannot make themselves as effectively heard in the short run as can the consumer in the private market shopping around for bargains and expressing his or her satisfaction with purchases. Thus public schools will produce a mix of attributes different from and less preferred than the mix of attributes produced by private schools, which means the public school education will be of lower perceived quality.

Modern-day economists have also argued that everybody is worse off under a publicly operated school system for yet another reason, namely, a publicly operated system costs more than a private system does to provide the same quality of services. Or stating the point differently, a publicly operated system forces parents to purchase a lower quality educational program than they could if they used the same amount of money to purchase private educational services. Thus in another way parental and taxpayer preferences are frustrated by the existing public system of education.

To see why it is plausible to assume that public provision costs more than private provision one must begin by recognizing that the public system is a virtual monopoly, free from competition, and is not profit making.[13] As a result of these two factors, there exists no strong incentive, at least in the short run, for those operating the system to make the most efficient use of the available resources. That is, the cost of inefficient behavior to the managers of the public schools is considerably less than would be the cost of inefficient behavior to those operating private schools in a competitive market. Inefficient behavior in a competitive market may ultimately mean the demise of the private school, but, since this cannot happen with regard to public schools, the incentives to avoid inefficient behavior are less. Put differently, the incentives for inefficient behavior (e.g., a superintendent's spending considerable sums of money on plush office furnishings) are strong; hence it becomes clear that public schools are likely to be a more costly way of providing a given quality of service than private schools.

In sum, economists have suggested at least three reasons why the production of educational services through a publicly operated school system is less efficient and produces a lower-quality and less-preferred product. But these economists might nevertheless have supported the idea of public schools if there were other additional moral arguments that decisively pointed to the wisdom of using public schools. Inefficiency is, after all, only one factor to be considered when choosing among alternative policies. The free-market economists, however, conclude that such decisive moral arguments do not exist. For example, West himself wrestled with the argument that public schools are warranted in order to equalize educational opportunity, be he concluded that a voucher system could as effectively serve that value. West, as well as other economists, concludes that because vouchers serve better than public schools the interest of liberty, and are more efficient, they are the preferred choice.

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[13] The analysis presented here is based on Armen A. Alchian and Harold Demsetz, "Production, Infórmation Costs, and Economic Organization," The American Economic Review 62 (December 1972): 777-95. For an earlier argument asserting the great efficiency of privately operated schools see Milton Friedman, "The Role of Government in Education," in his Capitalism and Freedom (Chicago: University of Chicago Press, 1962), p.85.

Some Difficulties Involved

Having outlined the basic arguments in support of the voucher system, it is now possible briefly to comment on the important political aspects of this argument. First, it is obvious from the foregoing pages that the argument on behalf of vouchers is a highly complex and conceptually sophisticated argument. This fact alone forebodes ill for those who are trying to convince others of the need to make a change in the system of producing educational services. The more complex the idea, the more likely it will be misunderstood and both intentionally and unintentionally misrepresented. And of course there are dozens of unanswered, complex questions about the actual design and operation of a voucher system that, once raised, add to the confusion and anxiety.[14] In short, the costs to the reformer of trying to get people to understand the voucher system are high and the costs of understanding for those being introduced to the voucher idea are also high. In addition, the costs of changing over to a voucher system are also bound to be high, as noted more fully below.

Second, despite the fact that some modern-day liberals have written on behalf of vouchers, vouchers have the reputation (deservedly or undeservedly) of being the idea of nineteenth-century liberals (who would be labeled conservatives today) and of twentieth-century conservative economists such as West and Milton Friedman. The reception given an idea is affected by the source from which it springs, and in this case it is doubtful that the intellectual origins of the voucher system are of much political advantage in the United States.

Third, as the rationale on behalf of vouchers itself makes clear, the purported benefits of the system are long-term in nature and widely diffused in that the voucher system promises to improve society by a general increase in liberty and to improve the overall efficiency of operating the system of producing educational services. Beyond saying this, the long-term costs and benefits are hard to specify except that one can see that the most immediate beneficiaries of a voucher system would be a rather diffuse group of people, that is, parents. But of course not all parents would immediately embrace the new liberty given them by the voucher system, and when it comes to politically organizing a group of people as diverse and diffuse as parents on the promise that benefits would accrue to them in the future (when many of them would no longer have children in school), the so-called free-rider obstacles to organzing these beneficiaries become almost insurmountable.[15] That is, not only are the promised benefits going to be discounted by parents because they are so far in the future, but also the personal costs in seeking reform would be heavily weighted as they are immediate and obvious. Furthermore, parents also would calculate that if only someone else would do the political work to bring about the new system, they could sit back and enjoy the benefits without having to incur any expense in bringing about the change, when and if it occurred. In these circumstances getting parents - the primary beneficiaries of the voucher system - to work for a voucher system would be a difficult task at best.

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[14] For a comprehensive review of these issues, see Center for the Study of Public Policy, Education Vouchers (Cambridge, Mass., 1970) (processed).

[15] The free-rider problem as it affect the formation of political groups for taking political action was first explored systematically in Mancur Olson, Jr., The Logic of Collective Action(Cambridge: Harvard University Press, 1965). Olson

The Federal Effort to Promote a Voucher Experiment

The Nixon administration in December 1969 launched a serious effort to establish several experimental voucher projects. All efforts to persuade a district, except for one California district discussed later, to involve itself in a voucher experiment failed for a variety of reasons, reported by two of the major participants in the effort to sell the voucher project.[16] An analysis of those reports leads one to conclude that the essential problem was that no one with any real power had any real incentive to try the voucher scheme, but they did have many real incentives not to engage in the experiment. Large city school superintendents could see no benefit to themselves in trying to persuade their boards to engage in a risky and highly controversial project. School board members could see the voucher system only as a long-term threat to their positions. Teachers and principals also looked down the road and could see no advantage in risking the possibility that the voucher experiment might prove to be a success, thereby threatening their secure positions in the public schools. Active black community leaders viewed the voucher idea either as a device to promote segregation or as a way of undermining their fledgling effort to obtain community control of the public school system. Whites feared the voucher system would end the present state of segregation in the public schools. And disputes over aid to religious schools further helped to divide communities. All these problems were compounded by the fact that just as the underlying rationale for voucehrs was complex, so was the actual design of the voucehr experiment being promoted by OEO and its advisers. The result was that it took a considerable effort on the part of promoters and those they were trying to persuade to come to a common understanding of the voucher system - the costs of understanding were high. And there were the usual problems of misunderstanding and misrepresentation. Furthermore, the audiences to which this or any other voucher scheme would be addressed were so divergent, with such different values, that satisfying one audience always meant dissatisfying another. In short, despite the results of the Gallup poll reported earlier, when it came to the hard decision no strong supporters of the voucher system were to be found or could be organized, but there were many opponents who were already organized and ready to oppose the voucher experiment. The failure to obtain a large-scale voucher system is probably just an example of the proposition that when the costs of a project are perceived by a few active and politically powerful individuals and groups, and when the benefits are diffuse and not sharply perceived by any significant group or individual, a reform effort

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pointed out that unless special conditions are met, rational self-interested individuals will not join organizations. For example, if there is a cost to joining the organization - be it money, time, effort - it would not be rational to join an organization seeking political gains if the individual would reap the benefits of the organization's reforms without joining the organization. The indvidual will prefer to be a free-rider enjoying the benefits of the newly passed bill, for example, without having incurred any costs in seeking its passage.

[16] Walter McCann, "The Politics and Ironies of Educational Changes: The Case of Vouchers," Yale Review of Law and Social Action 2 (Summer 1972): 374-86; and

will fail. An important implication of this last proposition is that while those who are opposed to the reform are easily mobilized because they so vividly see the costs (for them) of the reform, it is difficult for the reasons suggested in the proposition to organize for effective political action those who are the intended beneficiaries of a reform that is being pushed on their behalf by "professional" reformers located in academia and government. Furthermore, the free-rider problem discussed earlier adds to the difficulties of getting the intended beneficiaries to act on their own behalf when they see that others from academia and federal agencies already are working for them.

The proposition set forth here on concentrated costs and diffuse benefits is closely linked to but different from four other propositions suggested by Robert Dahl:

> It is generally easier to maintain old programs than to initiate new government policies. To maintain an existing program usually requires less change in the behavior and view of the epople. What is more, once a program exists the program itself is likely to generate resources - time, money, organization, information - that can be used to win support for it; and the people employed in the program will ordinarily have strong incentives to preserve it. Nothing is harder to create than a new institution, nothing harder to destroy than an established one....
>
> The less a proposal deviates from prevailing ideas and ideology, the better its chance of success. Hence marginal changes stand a better chance than comprehensive changes....
>
> In general, it is easier to veto a change than to initiate one, easier to preserve the status quo than to change it, easier to make technical changes than ideological changes, easier to make incremental changes than comprehensive or revolutionary changes....
>
> It follows that supporters of the status quo usually need fewer resources, less skill, and lower political incentives to prevent changes than opponents of the status quo need in order to make changes. Reformers and radicals, then, require more resources, skills, and incentives than conservatives. Revolutionaries require even more.[17]

As Dahl himself warns, one should not conclude from these propositions that those who prefer the status quo are in an impregnable position. Often those who prefer the status quo are fewer in number than those expected to benefit by a change, and if the beneficiaries organize effectively and act with persistence they may be successful. Of course, as noted earlier, organizing a large group of people is a problem so formidable that it undercuts the advantage of sheer numbers. Nevertheless, change is still possible if the proposed change is incremental and designed to serve specific groups who may have as strong an incentive to seek change as some groups have to maintain the status quo.

David K. Cohen and Eleanor Farrar, "Power to the Parents? - The Story of Education Vouchers," The Public Interest 48 (Summer 1977): 72-97.

[17] Robert A. Dahl, Democracy in the United States: Promises and Performance, 2nd ed. Chicago: Rand McNally, 1972, p.397.

BRING QUALITY BACK TO OUR SCHOOLS BY EDUCARD VOUCHERS[*]

By Mae Duggan[**]

In our American democratic republic, education has been a prime ingredient. It has always been recognized as the foundation for the individual's guarantee of liberty and pursuit of happiness, as well as for the nation's welfare and productivity.

Hence our dismay as suspicion spread that the education of our children was in serious decline; and hence the flurry of activity in reaction to the devastating facts documented in "A Nation At Risk," the report by the National Commission on Excellence in Education.

In response, the usual remedies have been proposed: larger infusion of money, higher standards, greater emphasis on math and science, return to basics, etc. But even though the condition of our educational system is a national crisis, very few new ideas have been proferred. Most of the remedies are pallatives to a system that by many measurements is failing vast numbers of our youth and placing them, and our nation, at serious disadvantage. In business terms, this is throwing good money after bad.

There is another remedy that up to now has not received broad attention. It is the idea of promoting choice and competition as incentives to quality. This could be accomplished by distributing educational tax dollars to the education of every child in the school of the parents' choice by means of a tuition voucher system known as "EDUCARDS." An EDUCARD - educational credit card - would be issued by the state treasurer for each school-age child each year, and would be redeemable at the school of the parents' choice, whether public or private, for an amount fixed by the state's education funding committee. Ideally, that amount would approximate the average expenditure per child in the state, less a percentage to ensure initially that there will be no net increase in the aggregate expenditures for elementary and secondary education.

As we examine our history we can see that much of our nation's educational philosophy and its funding has been based on assumptions, many of which have simply evolved into traditions so ingrained that they have taken on a semblance of sacredness and constitutionality.

These practices have also created several paradoxes. One is that, though parents have the primary right to direct the education of their children, this right is financially penalized by the state and often further limited by the "state's compelling interests." Another paradox is that under "neutrality," the public school system now promotes the value system of secularism. Whether the state's compelling interest and the state's value system are good or bad is not the point. The problem is that use of educational tax funds exclusively in government-operated schools sponsors a government "party line," which, in the view of many, is a violation of constitutional freedoms.

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[*] From the St. Louis Post Dispatch (Jan.18, 1985).

[**] Secretary, Citizens for Educational Freedom; Executive Director, Thos. J. White Foundation.

Still another paradox is the attitude toward school integration. Complaints of discrimination are often levied against nongovernment schools (99.9 percent untrue) and forced integration and quotas are pressed via busing for the government schools. Yet the financial ability of many minority parents to choose government or non-government schools, which would greatly promote voluntary integration, is continually and effectively limited by our present policy of educational funding.

Much of the strength of our noble experiment in government by, for, and of the people has resulted from our freedoms and our diversity of cultures and ideas. Circumstances have brought us to the point where the tax-supported monolith in education is leveling out the diversity that has given foundation to our society, is diluting the intellectual, academic and moral fiber of our nation, and eroding constitutional freedoms and basic human rights.

We have come to the point where we must seek a more effective and consistent educational system that both satisfies the public need for assurance of quality in education, and protects parental rights and constitutional freedoms. The Parents' Choice EDUCARD system embodies just such a philosophy.

THE POLITICS AND IRONIES OF EDUCATIONAL CHANGE: THE CASE OF VOUCHERS*

By Walter McCann

Many different notions huddle under the name vouchers. They run all the way from the unregulated system proposed by Milton Friedman, to moderately regulated systems such as the proposed by John Coons and his associates, to the more fully controlled system proposed by the Center for the Study of Public Policy. The last deserves some exposition, for it is the model around which much of the contemporary argument about vouchers revolves and its ideological structure and specific rules are directly related to the ongoing controversy over vouchers.

All voucher sytems have certain common characteristics. They involve payment of public tax monies in support of education to parents instead of to local school authorities. To assure that the money would be spent on education, it would be transferred to parents as a credit - a voucher - rather than as cash. Parents would use their vouchers to purchase educational services for their children, from among a variety of schools. The voucher would be redeemable into cash usually only by approved schools, for approved educational activities only.

The school board would no longer determine which school a child attended. Unlike the present situation, attendance would not be based on geography; a child could choose to apply to the school around the corner but would not be required to do so simply because it was nearby.

The amount of money spent at an individual school would be determined by multiplying the number of children in attendance by the value of the voucher. Assume, for example, that the amount of the voucher were set at the average per pupil expenditure of the school system, e.g. $3,000 per child. A school that enrolled 100 children would have an operating budget of $300,000 (100 X $3,000) exclusive of grants that it might obtain from such outside sources as foundations and the federal government.

The end result is a system of schooling in which (a) attendance is no longer geographically controlled and (b) the amount of money available to a school is determined by its ability to attract and hold students. Since housing, like schooling, is racially and economically segregated, the first change, at least theoretically, breaks the link between race/income and access to a particular school. The second change is intended to create an incentive structure which rewards responsiveness of schools to students and parents. Young people would no longer enroll in a particular school at the fiat of the school board. If schools wanted to attract students, so the theory runs, their programs would have to be responsive to the perceived needs of those students.

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* From Yale Review of Law and Social Action II, No.4, (Summer, 1972), pp. 374-389.

Beyond these minimal concepts, voucher models vary widely. Most of the variation is explained by the ideological positions or values held by proponents of a particular plan. The plans differ largely in the degree of regulation of the admissions "marketplace" - i.e., in the degree to which the free choice of students by schools, or schools by students, is circumscribed in order to serve values other than freedom. The voucher system proposed by CSPP is more highly regulated than many others. The regulations, for the most part, are aimed at insuring equal access to schools for children of all races and socio-economic status, assuring at least minimal standards of educational quality and providing sufficient information to parents to facilitate choice. Thus under the CSPP system, to become eligible to cash vouchers, a school would have to:

1. accept a voucher as full payment for a child's education, charging no additional tuition;
2. accept any applicant so long as it has vacancies;
3. if it had more applicants than places, fill at least half of the places by a lottery and the other half in such a way as not to discriminate against ethnic minorities;
4. accept uniform standards for suspension and expulsion of students;
5. agree to make a wide variety of information about its facilities, teachers, program and students available to the public;
6. maintain accurate and public financial accounts;
7. meet existing state requirements for private schools.

Three more aspects of the CSPP plan are worthy of note, for they have influenced the politics of vouchers. First, children could attend any eligible school, public or private. The proponents of the plan were less concerned with who ran the schools (public officials v. private citizens) than how they ran them (without discrimination and responsively). Second, the system would be operated by an Education Voucher Agency (EVA) which could but might not be directly controlled by the local school superintendent or school board. Although the school board would still be responsible for the operation of the public school system the schools in that system would have to meet the requirements established by the EVA in order to be eligible for voucher funds. Schools not operated by the school board - private schools - would have to meet the same requirements. Third, the proposal calls for somewhat higher payments to schools which enroll children from poor families. The basic mechanism sets the redemption value of the voucher higher for children from poor families than for children of the more affluent.

In summary, the CSPP voucher proposal calls for financing education by payments to parents. It provides more regulation than most other voucher proposals and calls for higher expenditures for the education of poor children. It is called a regulated compensatory voucher system.

At all levels discussions of vouchers has revolved around several issues, among which race and religion have been the most troubling. Each issue has a long and bitter history; each is current and real beyond the boundaries of the voucher proposal.

RACE. It is hardly a surprise that the voucher proposal would stumble time and time again on racial problems. Everyone involved in the project was aware of the real and imagined race-related dangers which the prospect of a demonstration would raise. A number of southern states have tried and failed to use publicly supported voucher or tuition grant plans to maintain segregated school systems. The judicial history of these attempts provides clear assurance that they will not be permitted to stand. Even privately sponsored "segregation academies" have been denied tax advantages. The legal situation with regard to a voucher plan established where there is no previous finding of purposeful segregation is less clear; strong arguments have been made that any plan which did not fully protect against the possibility of increased racial segregation would be legally suspect. Recent developments in the northern segregation cases lend support to the contention that courts are less likely than before to find "accidental" school board activities that lead to a pattern of racial segregation.

Even if the legal situation were entirely clear, the conflict over racial segregation would still be central. The previous history of voucher plans in the South, regardless of their ultimate legal fate, has made the entire approach suspect to liberals and blacks, both at the national and local levels. The Nixon administration's "southern strategy" and its subsequent stormy history in the field of civil rights has done little to reassure committed integrationists that the voucher proposal was not part of an attempt to dismantle even the limited desegregation of the past decade. This was and is true even though many of the regulations in the CSPP model were constructed to insure a racial and social mix in voucher schools. As one CSPP field representative put it, "... the precedent of using public funds to finance segregation academies in the South is a fearful specter, and, regardless of the intellectual merits of our guidelines, they did not provide a sufficiently dramatic line of demarcation between our theoretical system and the real and present danger of the segregation academies." CSPP field staff members sometimes suspected that people concerned about this issue had not read the CSPP report, but simply had rejected it out of hand because of Nixon administration sponsorship and the tainted history of voucher plans.

At the national level, practically every major national organization concerned with race and education, from the NAACP, to the American Jewish Congress, to the National Education Association expressed public or private concern about the potential racial impact of a successful demonstration. Even if their representatives privately agreed that the CSPP safeguards might be sufficient, as some of them reluctantly did, they feared that state legislatures and others would not adopt such stringent rules in the future. Thus, they preferred no demonstration at all, even though a carefully controlled system, they conceded, might be of educational merit

While the pressure at the national level came from mostly pro-integration sources, the local situation was more complicated. First, some whites were concerned that they would lose control over guaranteed access to virtually all-white neighborhood schools. From their perspective, the concern was accurate. The neighborhood school, arbitrarily segregated by housing patterns, is one of the targets of many voucher plans. People would not be guaranteed access to a neighborhood school, although no one would be denied access to a school simply because it was nearby. Since at least half of the places in oversubscribed schools would be filled by lottery, chances are that some chldren would be required to attend schools outside of their immediate neighborhood. That this is already true all over the country, and has been for years, is no consolation. The underlying issue is race and many white parents feared that vouchers would lead to more integration, not less.

TO BE CONTINUED

BOOK REVIEW: A Blueprint for Educational Reform, ed. Connaught Marshner (Washington, D.C., Free Congress Research and Education Foundation, 1984); v and 303 pages. Paperback: $14.

Fourteen authorities, including President Ronald Reagan and Editor Connaught Marshner, have contributed to this excellent compilation of recommendations for educational reform. Among frequently recommended ways to bring about needed improvement of education in this country are: stress on basics, insistence on discipline, leadership by administrators, the dedication of well educated teachers, more parental participation and allowance of parental choice of schools without loss of educational tax benefits. Additional recommendations include the expectation and demand for higher student achievement, merit pay increases for superior teachers, allowance of prayer and inculcation of morality in schools, training in good citizenship, reduction of government regulation and intervention, exclusion of political indoctrination and advocacy of radical social change, effective education of minorities, more education in the family, fuller teacher education, and avoidance of large scale participation in educational fads.

Stress on basics and avoidance of untested educational fads is demanded by parents (and eventually appreciated by students). Education should be structured, as amorphous, student-directed, "wandering" types of education have been discredited. Discipline is indispensable since lincense disrupts the educational process. Principals and teachers must first recognize the principal objectives of education and then take all steps necessary to attain them. Parents must take an active part in the educational process. including additional instruction at home, choice of schools (or home education), and decisions as to educational content and emphasis. Since parents are rightfully the primary educators, they should not be financially penalized if they prefer some other school -- public or private -- than the nearest government school. Operation of the "free market place" in education will insure effective quality education. Parental freedom of choice and participation in education can be fostered by tuition tax credits and/or educational vouchers.

All of the suggestions in the book are valuable, in this reviewer's estimation, especially those of President Reagan in his "...Education Reform;" Professor Stephen Arons in this "Pluralism (and) Equal Liberty...;" Thomas R. Ascik in his "...Research on What Makes an Effective School;" and Lawrence A. Uzzell in his "...The Case for a Federal Voucher Program."

Daniel D. McGarry, Ph.D.

CURRENT VOUCHER CONFERENCES

EDUCATION REFORM BY VOUCHERS CONFERENCE, St. Louis, MO at St. Louis University Law School, Sept. 25, 1:30 - 4:30 P.M., sponsored by the Sequoia Institute and the Thos. J. White Educational Foundation. For information, write or phone Roger Magyar, Sequoia Institute, 1822 - 21st St., Sacramento, CA 95814 (916/454-4505) or Thos. J. White Educ. Foundation, 940 West Port Plaza, St. Louis, MO 63146 (314/878-0400).

INTERNATIONAL CONFERENCE ON FAMILY CHOICE/EDUCATION VOUCHERS, Wichita, Kansas, Sept. 30 - Oct. 2, 1985. For information, write or phone Dr. Gordon Schultz, National Center for Privatization, P.O. Box 1998, Wichita KS 67201-1998, (316/687-4000).

VERMONT CONFERENCE ON EDUCATION VOUCHERS, Bristol, VT, Mt. Abraham Union High School, Oct. 12, 1985. For information, write or phone Jim or Linda Miller, RD-2, Box 4270, Bristol, VT 05443 (802/453-2780).

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